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A
BRIEF REVIEW

OF THE

QUESTION,

Whether the Articles of Limerick have been
violated?

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The Reader will find in the following sheets nothing more than plain reasoning, and a simple detail of facts, told with an avowed rejection of ornament, to avoid the possibility of a charge that the form and image of truth was distorted by false colouring. — The calumnies diffused against the legislature on the present subject, during the whole last session, demanded and hastened the publication.

BRIEF REVIEW, &c.

THE object of my present discussion cannot give reasonable offence to any party. It is merely to investigate an historical truth. Numerous objections have been made to the Penal Laws, passed in this Kingdom, respecting the Roman Catholics, since the Revolution. Among other things it has been said, that they were made in direct violation of the publick faith, as pledged by the articles of Limerick*, A charge which

* This charge has been for many years re-echoed from one end of the kingdom to the other, and lately brought forward in the most solemn, most acrimonious, and invidious manner, in that inflammatory work of Dr. Curry†, the Review of the Civil Wars of Ireland, *passim*, in Mr. O'Leary's Answer to the Bishop of Cloyne, (p 86.) and many other publications. —The subject is of the more importance, if a report be true (which seems founded on good authority) that bold remonstrances have been lately made to government, stating the violation of the articles of Limerick, and declaring the Roman

† A work calculated to inflame Papists against Protestants, which though the creed of a party, at whose desire it was written, is replete with falsehood, as is memorably instanced in his misrepresentation of the affair of Sheehy the Priest, so amply refuted last session by a very respectable member of the House of Commons in his place, who perfectly knew that man's guilt, and heard himself confess it.

which tends to bring odium upon the Protestant interest, and to impeach the present settlement of property. To this charge only the few following observations relate, without including the question, whether those laws were agreeable to humanity, or wise policy. Many benefits have been of late years granted to our Popish brethren, and their hope and expectation of obtaining more is not concealed. The wisdom of the legislature which granted them past favours, will determine whether further privileges and indulgencies ought to be allowed them; nor is it my business, at present, to deliver an opinion on the subject. My sole intention is to examine the truth of an opinion which has, as far as my observation extends, very generally pervaded the nation, that the Penal Laws were a breach of public faith; and that the abolition of them is not so much to be considered in the light of bounty, as of just restitution to the privileges set forth in the articles of Limerick; which privileges seem to be almost universally supposed to have been very nearly equal to those of his Majesty's Protestant subjects of the Established Church.

How the propagation of these opinions can contribute to the public peace,—how the diffusion

Roman Catholicks will never be contented, until they are equally admissible with Protestants to all places of trust and profit, and to seats in parliament, and equally capable of bearing arms and voting at elections. A remonstrance founded on the same charge, was transmitted to Majesty itself, in the administration of Lord Hallifax.

sion of accusations of perfidy and treachery against the Protestant inhabitants of this kingdom can arise from good intention, or is agreeable to that much boasted desire of modern Dissenters, to unite all ranks and persuasions of men, is a difficulty which our opponents must solve. Certain it is that these notions, supported by confident assertion and artful insinuation, have been implicitly swallowed by the vulgar, even among Protestants. But I am too well acquainted with the errors which creep into history, and the support which falsehood finds in human indolence, to give my assent to the credulity of ages, unfortified by testimony, and original evidence. If the Roman Catholicks are entitled to favours, the respectable members of that body will disdain to support their claims upon grounds of misrepresentation. For my own part, if by a candid enquiry into facts, this grand foundation of their complaints against us can be dissolved, I shall think myself the Minister of Peace.

Of the articles of Limerick, (which, for the convenience of consulting them, are hereunto annexed), the first alone, in my humble opinion, is relative to the subject. All the rest appear to me to relate either merely to the times in which they were made, or, as far as they regard futurity, to be confined to individuals then alive, and their respective families, without including

cluding or relating to, the great body of Roman Catholics of Ireland.

The first article says, the Roman Catholics of this Kingdom shall enjoy such privileges in the exercise of their religion, as are consistent with the laws of Ireland, or as they did enjoy in the reign of King Charles the second; and their Majesties, as soon as their affairs will permit them to summon a parliament in this kingdom, will endeavour to procure the said Roman Catholics such further security in that particular, as may preserve them from any disturbance, on account of their said religion.

Some stress is laid on the second article. Let the reader consult it. He will find that it is confined 1st, to the inhabitants, or residents of Limerick, at that time or of any other garrison then in possession of the Irish; and 2dly, to the officers and soldiers then in arms, under any commission from King James, or those authorised by him to grant the same, in the several counties of Limerick, Clare, Kerry, Cork, and Mayo*, or any of them; 3dly, to all the commissioned officers, in their Majesty's quarters, that belonged to the Irish regiments then in being, that were treated with, and were not prisoners of war, or who had taken protection, and who should return, and submit to

* These words were afterwards inserted by consent, and all such as are under their protection in said counties. Vide the letters patent, at the end of the articles,

to their majesties obedience, and to the and every of the heirs, of all such persons above-mentioned. Now, I ask, what claims can the general body of the Roman Catholicks put in*, under this article, which evidently speaks only of certain individuals, and their heirs, or if they please, of a certain part and portion of that body? Let us now see what this article covenants; *That* they, and their and every of their heirs, shall hold, possess, and enjoy, all and every their estates of freehold and inheritance, and all the rights, titles, and interests, *privileges and immunities*, which they and every or any of them, held, enjoyed, or were rightfully entitled unto in the reign of King Charles II. or at any time since, by the laws and statutes that were in force in the said reign of King Charles II. and shall be put in possession by order of the government, of such of them as are in the king's hands, or the hands of his tenants, without being put to any suit or trouble therein,

The reader will see, that the remainder of this article relates only to discharging the estates before mentioned, from certain arrears of crown and quit rents,—to the security of all persons therein comprehended, in the enjoyment of their goods

* To how few comparatively can this article extend, if the representation lately made to a Prince of the Blood at Cork, (that the Roman Catholicks are two millions) be true. Some mistaken men indeed considered this only as a threat, and quoted the story of a leader of a party in the house of commons, who when the minister remonstrated with him on the unreasonableness of some favour he asked, would make no reply, "But, my lord, there are ten of us."

goods and chattels, and to enabling *the persons included* in this *article*, to use, enjoy, and exercise, their several professions, trades and callings, as freely as they did in the reign of Charles II. And the article concludes with a proviso, that no one should take benefit by it, who did not take the oath of allegiance.

The third article extends the benefit of the second, to merchants, or reputed merchants, of the City of Limerick, or of any other garrison then in possession of the Irish, or of any town or place in the Counties of Clare or Kerry, who were absent beyond the seas, and had not bore arms since February, 1688, and who should repair into the kingdom in eight months.

The fourth extends the benefit of the second, to certain *individuals*, under the conditions therein prescribed.

The fifth, sixth, seventh, and eighth, relate to the persons, and descriptions of men mentioned and recited in the second and third articles, and to them only.

The ninth prescribes the oath to be administered to such Roman Catholicks as submit to their Majesties government.

The tenth stipulates, that no person by breaking the articles shall deprive others of the benefit of them.

The eleventh relates only to the exemption from arrests, (during eight months, from the date of the articles,) of the persons comprehended in the preceding articles.

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The twelfth is an undertaking on the part of the Lords Justices, and General, that *their Majesties* would ratify the articles, within the space of eight months, or sooner, and would use their utmost endeavours that the same should be ratified and confirmed in parliament.

The thirteenth relates to the private interest of Colonel John Brown, and his creditors.

On the most cursory review of these articles, it will appear that all those which stipulate for any benefit to the Roman Catholicks, except the first, are confined to persons then alive, or to certain portions of that body described in the second and third articles, and their heirs, by whom alone such benefits are claimable; and that the great and general boon contained in these articles, is a covenant expressed in the first of them, that the Roman Catholicks of Ireland should enjoy such privileges in the exercise of their religion as were consistent with the laws, or as they did enjoy in the reign of Charles II.

This is the tenor of these celebrated articles, and such are the descriptions of the persons whom they concern. Now let me ask, would not any uninformed man conclude from the outcry raised about them, not merely that they were violated, but also that the Papists of this kingdom were in the time of

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Charles II. in a most eligible situation, and blest with most, if not all the privileges and immunities which any subject can desire? For what can the warmest sticklers for those articles demand *under them*, more than a restoration to the state in which they were during the reign of that prince, and to the benefits which were consistent with the laws before the revolution? To the detection then of these two errors, (the one implied, that the Roman Catholics of Ireland were in the reign of Charles II. in a much better situation than is consonant to fact,* the other expressed that the treaty of Limerick has been broken, and the publick faith violated,) my enquiries shall be pointed.

Our first business therefore is to enquire, how the Papists of this kingdom were situated in the reign of Charles the second; what privileges they could enjoy, consistent with the laws at the time of the revolution; and how far the spirit of penal legislation, directed against them, has originated since that period. Penal laws contain restrictions affecting, 1st, property, 2dly, power, or 3dly, religion. Now, in my humble opinion, the advocates for a total abolition of the penal or disabling laws, certainly do not say expressly, that such a step would be nothing more than carrying into execution the articles of Limerick, but they seem to wish to insinuate it, and to persuade the ignorant, that the late relaxing laws, and any future ones which may be made, only put the Roman Catholics on their former footing, under Charles II. and I do believe this is the vulgar idea.

the penal laws, which were in force in this kingdom during the reign of that prince, though they did not affect their property in the same degree with the subsequent code, did most effectually impede their admission to places of trust and profit, i. e. to power, and debar the free exercise of their religion; and if that was the case, they cannot boast much of those privileges, to which alone the articles of Limerick entitled them. If that, I say, was their situation, it follows that those persons are utterly mistaken, who imagine that the restrictions laid upon their religion, and upon their admission to power, are creatures of the revolution, and violations of the articles of Limerick.

1st. Let us see then how the law stood as to the exercise of the Popish religion under Charles II. I do not mean to innumerate all the penal laws then extant, but only the most remarkable.

No priest was allowed to stay in the kingdom, without taking the oath of supremacy, and acknowledging the King to be head of the church.

This followed, from the English Stat. 27 Eliz. ch. 2. which extended to all her Majesty's dominions; and every one knows that those general words were at that time construed to extend to, and bind Ireland. That act banished all Jesuits, seminary priests, and other Priests whatso-

ever from these realms, and forbad them to come into it on pain of high treason. To entertain them was felony. To contribute money to the maintenance of priest, or seminary, or of any person in a seminary abroad, subjected the party offending to the penalties of *præmunire*. Whoever discovered such priest, and did not inform against him, was liable to fine and imprisonment. Then followed indeed a proviso, that the act was not to extend to any Jesuit or Priest, who should take the oath of supremacy, and from thenceforth acknowledge, and continue obedience to her highness's laws, in causes of religion. A proviso evidently useless to men, one of whose first tenets it was to uphold the Pope's supremacy, in opposition to the crown. The same act forbad the sending children abroad without special licence, under pain of 100*l*. least they should be educated in foreign seminaries; and obliged all subjects in such seminaries to return in six months * after proclamation, and take the oath of supremacy, under pain of high treason.

Such were the prohibitions against the dwelling and residence of priests in the kingdom. The saying and hearing of mass was also strictly prohibited.

The English act, 23d Eliz. ch. 1. in its 4th section (which section, I think, like the first, was

* This part of the act is observable, as it shows that restraints on foreign education existed before the revolution.

was meant to extend to all the Queen's dominions) enacts, that every person which shall say or sing mass, being thereof lawfully convicted, shall forfeit the sum of two hundred marks, and be committed to prison in the next gaol, there to remain by the space of one year, and from thenceforth until he have paid the said sum of two hundred marks; and that every person which shall willingly hear mass, shall forfeit the sum of one hundred marks, and suffer imprisonment for a year.

Though I apprehend that the saying or hearing of mass in Ireland, was punished under this act, and that its fourth section was construed to extend to all her majesty's dominions, as some of its sections undoubtedly did, yet I cannot prove it by any particular instance, and therefore shall not dwell upon this law, but proceed to the act of uniformity, 2d Eliz. ch. 2. which is an Irish as well as an English act, having been enacted in both kingdoms.

The act of Uniformity, 2d Eliz. ch. 2. after mentioning the book of common prayer, enacts, that if any Minister refused to use the said common prayers, or to minister the sacraments in the order as they were set forth in the said book, or should wilfully or obstinately *use any other rite or manner of* celebrating of the lord's supper, or mattins, even song or administration of the sacraments, or other open prayers, than

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is mentioned, and set forth in the said book, he should forfeit, for his first offence, the profit of all his spiritual benefices arising in one whole year next after his conviction, and suffer imprisonment for six months; for the second offence, the penalty was a year's imprisonment, and deprivation of all his spiritual promotions; and for the third, imprisonment during life. If he had no spiritual promotions, the punishment for the first offence was discretionary imprisonment—for the second, imprisonment for life. 2 Eliz. ch. 2. section 4, 5, 6, 7, & 8, Irish act.

These sections of the acts, made it criminal in the Priest to say mass. Those which I shall next quote, inflicted penalties for the hearing of it.

Section 9. If any person shall in any interlude, plays, songs, rhimes, or by other open words, speak in derogation, depravation; or despising of the said book, or of any thing therein, or shall by open deed, or by threatenings, procure or maintain any person or Minister to sing or say any common prayer, or to minister any sacrament otherwise than is mentioned in the said book, every such person being convicted in form aforesaid, shall forfeit to the Queen—for the first offence, 100 marks.

Sec. 10. For the second offence, 400 marks.

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Sec. 11. For the third offence, shall forfeit all his goods, land, suffer imprisonment during life.

Sec. 12 & 13. If the sum not paid in six weeks, six months imprisonment for the first offence, twelve for the second.

It is evident from the general words of the act, that it extended to saying mass, and to put it beyond all doubt that it was so interpreted, I shall quote a case from Dyer, f. 203. a. b. taken notice of by Bolingbroke, Eccl. Law. 344.

A. was indicted under the act of Uniformity, for saying Mass, and several other persons for hearing him read or say it. They were all convicted; and as to the latter, it was determined that their offence came under the word *maintain*, in the ninth section.

I proceed to a third provision of this act, contained in the 14th section, which says, all persons inhabiting within the Queen's dominions, shall, having no lawful excuse, endeavour to resort to their parish church, or chapel, or upon

* Carte (life of Duke of Ormond) observes that the act of Uniformity was enacted 40 years before the Papists became liable to this clause, for they used to go to church long after the Reformation, and probably they would not have separated, if intrigues of wicked men had not operated.

on reasonable let thereof, to some usual place, where the said common prayer, and such service of God, shall be used every Sunday, and other Holiday, and there abide during the time of divine service, upon pain of punishment by the censures of the church, and also upon pain that every person so offending shall forfeit twelve pence, to the use of the poor*.

Besides these acts of parliament, which endeavoured to extirpate Priests from the kingdom, as well as bar their re-admission,—to prevent the hearing, or saying of Mass,—and to lay obstacles in the way of all foreign education, thus at once consuming the substance within, and stopping all channels by which it might receive nourishment from without, numerous proclamations were continually issuing, which forbade the exercise of the Popish religion, and the continuance of Popish Priests in the country. And the royal proclamations, though the doctrine which held them equipollent to laws, was no longer supported, were, *in effect*, during the time of the Stuarts, and especially in this realm, respected and obeyed like acts of parliament.

It appears then, that in the reign of King Charles the II. persons who heard or said mass, or who refused or wilfully neglected to go to their

* This fine was in England raised to 20l. by a subsequent act of Eliz.

their respective parish churches, at the times of divine service, were by the laws liable to very severe penalties. If those laws had not been executed, my argument would be the same. They existed, with a power of enforcement, at the pleasure of government. The objects of these laws therefore could stand, after the articles of Limerick, merely on the same footing they possessed before, subject to the penalties—liable to their infliction. But a few instances will shew how the penal statutes were construed in practices, and how far they were carried into execution before the revolution. And although there is abundant opinion of writers of approved credit, who would afford us testimonies, from whom should I rather quote my authorities than from the celebrated Mr. Curry, the foremost of those champions, who have so boldly defied the Protestant world to wipe off the stain impressed upon it by the supposed violation of the articles of Limerick, whose work is become more known every day, and consequently more mischievous, and seems, indeed, no work of peace. Though he may be convicted of the grossest misrepresentations in many parts of his book*, his disciples will not refuse

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* Particularly those which relate to the Irish rebellion, and to several members resigning their seats, through abhorrence of a parliament which could pass the 2d Anne; the latter of which is absolutely false, as appears from the journals; for no persons desired to resign until a twelvemonth after that bill passed, and then their reasons appear to have been illness, or a necessity of going abroad.

to admit his testimonies, with respect to Protestant tyranny. Indeed, *on that subject*, he generally quotes his authorities. From him it will appear not only that the act of Uniformity was rigorously executed in the time of the Stuarts, but also that Popish ecclesiasticks repeatedly felt all the severity of government, and were more than once banished the kingdom. This was sometimes done by the orders and proclamations of government, sometimes by enforcing the penal acts. *.

Dr. Curry informs us, upon the authority of Ocborne and others, that King James I. had before his coming to the throne, promised to the Roman Catholicks at least a toleration of their religion †. *It follows therefore that it was not tolerated before his accession.*

Dr. Curry proceeds †. The Catholicks, in the different provinces of Ireland, were, on James's accession, so much elated with the hopes of the above-mentioned toleration, and had taken up such an opinion that the King himself was

* It should seem too from history, that the English laws against Recusants, which were more severe than the Irish, were sometimes executed, although not enacted here. In those times of dubious constitution, and undefined prerogative, such proceedings will not surprise us. Thus the Commons, May 15th, 1661, address the Lords Justices, praying that the oath of allegiance, prescribed by an *English act*, 3d James, may be enforced here.

† Curry, p. 58. vol. 1st.

† vol. 1st. p. 59.

was a Catholick, that they ran into some excesses. [*Mark what these excesses were, according to the same author.*] They exercised their religion publicly, and even seized on some churches for their own use*. So then, Dr. Curry, it is acknowledged, that openly to exercise their religion, in the time of the first Stuart, was to run into excess.

But, it seems, their excesses were not tamely endured, or overlooked by government; for, as they happened principally in Munster, Lord Mountjoy drew down an army towards that part of the country. It is said, indeed, that besides the causes above mentioned, he was induced to this measure by some appearances of disloyalty in that province; but, says Curry, what Lord Mountjoy seemed principally to resent in these people to such a degree, as thus suddenly to draw down the army upon them, was the boldness of several of the towns and corporations, in *setting up of their own heads the publick exercise of the Popish worship*. For, in all his letters to the magistrates of that province he takes particular notice of that boldness, frequently assuring them that his Majesty was a good Protestant; and even threatening one of these towns, that

* It is remarkable how similar this conduct was to the late behaviour at Glanmire, County Cork, where threats were openly denounced, that the new church should be burnt, unless the materials of the old one were given to build a malthouse.

that if they did not desist from the publick breach of his Majesty's laws, in the celebration of the mass, he would think them fit to be prosecuted with the revenging sword of his Majesty's forces*.

Soon after his accession, King James also published a proclamation, strictly forbidding the exercise of the Popish religion in Ireland; banishing their clergy, and inflicting severe penalties on all such as should be found to harbour or entertain them; enjoining also the strict and immediate execution of the act of Uniformity†.

In the same reign, Robert Lawler was thrown into prison for exercising the function of a Roman Catholick priest‡; and a Popish bishop of Down and Connor, with several priests, were hanged: It does not appear for what crime, but it should seem probable, for offences against the above-mentioned act of 27th Eliz.§

About the year 1615, imprisonments on account of Recusancy, were, according to Curry, frequent and grievous¶. And about the same time the King gave particular instructions to Sir Oliver St. John, then going over Lord Deputy, to put the statute of Uniformity, and all other penal

* Curry, vol. 1st, p. 63. Morrison, fol. 288.

† Curry, 65.

‡ Curry, 78. and Sir John Davis's Reports.

§ Curry, *ibid.*

¶ vol. 1. p. 101. & 102.

penal statutes in strict execution; instructions which he vigorously pursued, and strictly executed the statute*; and caused presentments to be made of such as neglected coming to church in different parts of the kingdom. So that under this act not less than eight thousand pounds were levied in the poor county of Cavan alone, in one year, in penalties. Ecclesiastical censures, on the same account, were severely executed in every part of the kingdom, and persons excommunicated for disobeying the act, were denied christian burial. 1613, Juries were punished for not presenting Recusants†. About 1626, the Roman Catholicks of Ireland applied for a toleration, in return for which they offered to pay and maintain a considerable army. A protestation was drawn up against a toleration by Primate Usher and twelve bishops; and their offer, as the Popish writers say, was scornfully rejected.

Sir Edward Walker, in his Historical Discourses, fol. 338, says expressly, that the Popish religion was at this time penal to the professors of it. In 1629‡, says Curry, a severe prosecution was raised

* Curry, 102. Carte's Ormond, vol. 1. p. 37.

† Desid. Curios. 263. Curry, 100. vol. 1.

‡ Carte tells us, speaking of these times, that in consequence of the promised graces, the King received a supply of money from the Papists; they looked on this grant as a great favour done to government, grew insolent thereupon, and celebrated their service publickly; that Lord Stafford, for this reason,

raised against the Papists. Mass being publicly celebrated in Cook-street, Dublin, the Lords Justices sent the Archbishop of Dublin, the Mayor, Sheriffs, and Recorder of the city, to apprehend the offenders. They carried a military force with them, which rifled the mass-house. Resistance was made by the populace; and eight Popish aldermen were laid by the heels for not properly assisting the Mayor. On the same account fifteen Popish chapels were seized to the King's use*, and the priests and friars were so persecuted, that two of them hanged themselves. This is Curry's own account of the affair.

We find immediately before Lord Strafford's coming over, that the act of Uniformity was put in strict execution. Presentments were accordingly made, agreeably to the act, and fines imposed on such juries as refused to find them†.

In the session of parliament which commenced the 4th of November, 1634, the statute of Uses and Wills were passed, which put it in his Majesty's power, at that time, to have all minors educated in the communion of the Church of England; and which were considered by the Roman Catholics, as tending utterly to extinguish their

reason, had directions to controul them very strictly, and did accordingly, soon after his coming over, publish a proclamation against their regular Clergy. *Carte's Ormond.*

* Leland. vol. 3. p. 7. On this occasion the Popish college, erected in Dublin, was assigned to the University.

(†) Curry, 117. Lord Strafford's State Letters, vol. 2. fol. 91.

their religion.—[*Carte's Ormond*, vol. 1st.] This power, however, I conceive, was extinguished with the Court of Wards, and in the room of it the Chancellor obtained a power of assigning Protestant guardians to Popish wards. Let us pass over times of confusion, from which no precedent can be drawn, and proceed to the reign of Charles II.

In 1662, the Popish Clergy, even those who had subscribed the famous Irish remonstrance, were not suffered to enjoy one chapel without daily hazards of imprisonment, and even men's lives; and on New Year's Day, that year, the Franciscan chapel, in Dublin, was assaulted, the altar rifled, and the priests carried prisoners to Newgate*.

About 1666, the Duke of Ormond banished the Popish clergy out of the kingdom, insomuch that when he quitted the government, there were not more than three Catholick bishops remaining in it†.

In the parliament of 1661, both Houses began with a declaration, requiring all persons to conform to the church government, and liturgy established by law‡.

* Curry. 91. Walsb's History of the Irish Remonstrancer, fol. 26.

† Curry, 93.

‡ Leland, vol. 3. p. 420.

In 1663, the House of Commons presented an address to the Lord Lieutenant, representing the danger arising from Recusants, and the confluence of Popish Priests, Friars, and Jesuits, and recommending bills for enforcing the act of Supremacy, and banishing all Popish ecclesiasticks from the kingdom*.

About the year 1670, in Lord Berkeley's administration, the King and his ministers certainly wished to countenance the Papists in Ireland, and indeed to make this a Popish kingdom, but the English parliament vigorously interfered. They addressed the King, requiring that all Priests should be banished from Ireland, and all Convents and Seminaries there dissolved. We must suppose their desire was complied with; for Leland says, upon that occasion, the parliament was too formidable for any slight or neglect of their representations, and the public countenance was for a time withdrawn from the Popish interest†.

On intelligence being brought to Ireland, of what is usually called the Popish plot, orders were issued, that Popish Ecclesiasticks should depart from the kingdom, Popish Seminaries and Convents be suppressed, and that all Papists should bring in their arms within twenty days‡.

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* Leland, vol. 3. p. 4, 34. Com. Jour. vol. 2. p. 317.

† Leland, vol. 3. p. 463, 467.

‡ Leland, vol. 3. p. 474.

After the accession of James II. orders were issued, that the Catholick clergy should not be molested in the exercise of their functions; and the King's pleasure was notified, that their prelates might appear publicly in the habits of their order. But these orders would have been unmeaning and unnecessary, if he had not found upon his accession, the laws against the exercise of the Popish religion, in a train of execution.

The laws against the exercise of Popery, were the same in the reign of Charles II. as of his father; what then was their situation in both reigns? Hear Dr. Curry speaking of the times of Charles I. * Who, says he, can help wondering at Clarendon's strange partiality and ignorance, when he asserts that the state of the Catholicks at this time, was as quiet and happy as they themselves could reasonably wish. Yet, to no greater state of quiet or happiness did the articles of Limerick proffer to restore them; What do the articles themselves say? Their Majesties, as soon as their affairs will permit them to summon a parliament in this kingdom, will endeavour to procure the Roman Catholicks such further security in that particular, as may preserve them from any disturbance on account of their said religion. —Vide article 1st.

It cannot therefore be denied, that in the reign of Charles II. the free exercise of the Popish religion

* vol. 1st p. 179.

gion was so far from being permitted in Ireland, that it laboured under very severe penalties, which were often rigorously enforced. The penal laws were not before the Revolution, (as they have usually been since,) a dead letter, suspended over their transgressors *in terrorem*, and seldom carried into effect: They were really and severely felt. The act of Uniformity in particular, was the subject of continual murmur and complaint. So much for the state of the Popish religion at that period in this country. The act of Supremacy will give us some insight into the privileges which Recusants possessed, if candidates for power and office.

That act, (2 Eliz. ch. 1.) in its 16th section, runs thus: No foreign prince, person, prelate, state, or potentate, spiritual, or temporal, shall enjoy or exercise any manner of power, jurisdiction, superiority, authority, pre-eminence, or privilege spiritual, or ecclesiastical, within this realm, or within any other her Majesty's dominions.

And in section 7 this law enacts, that all and every archbishop, bishop, and all and every other ecclesiastical person, and other ecclesiastical officer, and minister, of what estate, dignity, pre-eminence, or degree soever he or they be, or shall be, and all and every temporal judge, justice, mayor, and other lay or temporal officer and minister, and every other person having fee or wages

wages within this realm, shall make, take, and receive a corporal oath, upon the Evangelists, before such person or persons, as it shall please the crown to assign and name.

Then follows the oath.

I. *A. B.* do utterly testify, and declare in my conscience, that the Queen's highness is the only supreme governor of this realm, and of all other her highness's dominions, and countries, as well in all spiritual or ecclesiastical things or causes, as temporal; and that no foreign prince, person, prelate, state or potentate hath or ought to have any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual within this realm, and therefore I do utterly renounce and forsake all foreign jurisdictions, powers, superiorities and authorities, and do promise that from henceforth I shall bear faith and true allegiance to the Queen's highness, her heirs and lawful successors, and to my power shall assist and defend all jurisdictions, privileges, pre-eminences, and authorities, granted or belonging to the Queen's highness, her heirs and successors, or united and annexed to the imperial crown of this realm. So help me God, and by the contents of this book*.

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(*) This oath has been several times altered, particularly in the time of King William, but it stood as above in the reign of Charles II.

This statute further enacted, that if the persons before named, refused to take said oath, they should forfeit all promotions, offices, and benefices spiritual, and all lay promotions or offices.

That no person should be admitted into the service of the Crown without taking this oath. (Sec. 10.) That it should also be administered before admission to all or any ecclesiastical benefice, promotion, dignity, office, or ministry, or to any temporal or lay office, and that whoever refused it should be incapable of such promotion or office.

That no person should be admitted to take orders or degrees in the universities, without having first taken this oath.

That every person maintaining or acting for the Papal Supremacy, should for the first offence forfeit all goods and chattels, which, if not worth 20*l.* there should be added one year's imprisonment; and for the second offence, should incur the penalties of provision and præmunire.

That patrons of ecclesiastical promotions, which should be void in consequence of this act, might present as if the incumbents were dead.

The most cursory view of this act, will discover what an almost infinite number of places Papists were excluded from by it.

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The practice corresponded with the theory.

In 1614, we find that all lawyers, who would not take the oath of supremacy, were forbidden to practice; and all pensioners who refused the oath, lost their pensions*.

Before that time, about 1605, the King had sent over strict injunctions, that the oath of supremacy should be administered to the Catholick lawyers, and justices of peace†. In consequence of which, many persons were punished as Recusants‡.

Curry tells us, that the forbidding Recusant lawyers to practice, occasioned such prejudice to clients, especially at the assizes, that the House of Commons twice addressed the Lord Deputy, praying that they might be restored to their practice; but their application did not meet with success.§ Such was the resolution of government, to enforce the act of supremacy.

In the peace made with the Irish, by the Marquis of Ormond, 1648, it was articulated, that the Papists should be admitted to places of trust and profit, and that they should have the free exercise of their religion. — *Ergo*, they had not these privileges at the time of making that treaty, and

* Decid. Curios. Hibern. vol. 1. p. 320. Curry, vol. 1. p. 99.

† Caste, vol. 1. p. 21. ‡ Curry, p. 75.

§ Curry, vol. 1. 101, 102.

if not, they did not enjoy them in the reign of Charles II. for that treaty was not confirmed after the restoration; and the penal laws stood exactly the same, or were perhaps more severe, during the whole reign of Charles II. than at the date of that treaty.

If such was the spirit of preceding æras, it is very improbable that the Irish legislature was more disposed to admit Papists to power and employment in the reign of Charles II. It was a season when it was most particularly the interest of the ruling powers to diminish their strength, and prevent their access to office. The claims of the Catholicks upon the property, lately engrossed by the Protestants, were infinite. Their opposition to, and resentment at the acts of Settlement and Explanation, form some of the most striking features of that reign.

In the parliament which assembled in 1661, no Catholicks were returned*. This was easily effected, as the adventurers and soldiers kept possession of their lands, and their interests in the several corporations.

The Commons, says Leland†, speaking of this parliament, hated and dreaded the Popish party, and laboured to exclude all that party from ever sitting in it. A bill was transmitted for imposing an oath of qualification on their members. It was suppressed in England as unreasonable.

* Leland, vol. 3. p. 420.

† Leland, vol. 3. p. 421.

reasonable. They again attempted their purpose by a resolution*, that no members should sit in their house who had not taken the oaths of allegiance and supremacy. This resolution the Lords Justices condemned, as an invasion on the prerogative.

The Commons, says the same author, were provoked at this conduct of the Lords Justices, which they deemed an unreasonable partiality to Papists.

Whether the above-mentioned resolution of the Commons was illegal, as Dr. Curry terms it, or whether, in their opinion, the oath of supremacy, the usual previous qualification in all inferior stations, did by necessary implication extend to seats in their House, it is not incumbent

* May 15th, 1661. Ordered, upon question, that the undenamed persons be, and are hereby appointed a committee to attend the Lords Justices, and hereby to pray their Lordships from this house, to issue out a warrant to the Right Hon. the Lord Chancellor to grant a commission under the great seal of this kingdom, unto such persons as their Lordships shall think fit, whereby they, or any two or more of them may be empowered to administer the oath of supremacy, which is established by act of Parliament in this kingdom, and the oath of allegiance established 3d James in England, unto all and every of the members of this house, that now are, or hereafter shall be, in such manner, form, and order, at large, as in the acts they are severally expressed. Then follow the names of the committee.—*Commons Journals*, vol. 1. p. 602.

This resolution implies the opinion of Parliament, that Papists were excluded from seats in it by law even at that time.

bent on me to determine. Their conduct, as well as that of the Lords, (who did at the same time, according to Curry, make an order* with the view of excluding the Catholick Peers, that all their members should receive the sacrament from the Primate's hands,) proves how little favour the Roman Catholicks had reason to expect from the legislature in the reign of Charles II.

We find accordingly, during this reign, that whenever the execution of the penal laws seemed to be in any degree relaxed, the parliaments both of England and Ireland took the alarm. About the year 1670, under Lord Berkley's administration, Papists were, by an order of government, permitted to hold commissions of the peace, and an attempt was made to establish some Popish aldermen and a Popish common council in Dublin. The English parliament immediately addressed the King on the affairs of Ireland, praying that he would give order that no Papists should be admitted justices of the peace, sheriffs, coroners, or any magistrates in Ireland; and that all licences to Papists for inhabiting within corporations should be recalled. The King complied, and the obnoxious proceedings in Dublin were reversed†.

* The same was done in the House of Commons, as appears by their order, June 17th, 1661. — *Commons Journals*, vol. 1. p. 616.

† Leland, vol. 3. p. 466.

In this same boasted reign, the necessity of taking the oath of Supremacy, was extended further than at any former period, viz. to school-masters and private tutors. Act 17 and 18. Charles II. chap. 6. sec. 6.

The clause last mentioned is contained in a second act of Uniformity, joined and annexed to the former act by its 18th section*, and using all the punishments of that former act against the violators of the present.

This same æra of supposed civil and religious liberty to Catholics, saw them in effect excluded by the act of Settlement and Explanation, from inhabiting within corporations, unless by special licence from the Lord Lieutenant and Council, and when these licences were thought to be too frequently granted, we have seen that the English parliament addressed to have them all recalled†.

The Explanatory act enabled the Lord Lieutenant and Council to make what were called the new rules, which were to be equivalent to laws; and these new rules, which are found in the third volume of the Irish statutes, ordain, that no person shall be a magistrate in any corporation

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* The 18th section mentions the former act as being still in full force, and joins and annexes it to the present, so as to obtain the advantage of its penalties.

† Leland, vol. 3. 466.

tion in Ireland, who doth not previously take the oaths of allegiance and supremacy.

After the accession of James II. Roman Catholics were admitted into offices of trust and profit without taking the oath of supremacy. We find Lord Clarendon remonstrating against it, as notoriously contrary to law.

If any doubt remained, whether the Roman Catholics were admissible under Charles II. to office and employment, an extract from Sir Toby Butler's famous speech, before the House of Commons (as council for the petitioners against the remarkable penal statute, second Anne) would be decisive. The 10th, 11th, 12th, 13th, and 14th clauses of this bill, saith he, relate to offices and employments which the Papists of Ireland cannot hope for the enjoyment of, but by grace and favour extraordinary; and therefore do not so much affect them as it does the Protestant Dissenters, who (if this bill pass into a law,) are equally with the Papists deprived of bearing any office, civil or military, under the government, to which, by right of birth, and *the laws of the land*, they are as indisputably entitled as any other their Protestant brethren: And then he proceeds to expatiate on the new injury done to Protestant Dissenters by this law, but not one word of its containing any innovation

tion in this particular as to the Roman Catholics.

To produce more testimonies would be *De Re non dubia, Uti testibus non necessariis*, nor should I have wasted a moment on a point so notorious to all persons however slightly versed in history, if pains had not been taken to impress upon the ignorant mind a false and contrary opinion.

With respect to property, it must be admitted that the Papists did in the time of Charles II. stand nearly on the same footing* with other subjects. It was by no means my assertion, that they have not been in a worse situation since the revolution than before, but only, that this situation is not so much worse, as is generally imagined; and that with respect to the two great heads of religion and power, the difference is inconsiderable, or perhaps in regard to the enforcement of the laws, much in their favour; it remains, to discuss the question, whether the alteration of the penal laws since the revolution, and their augmented severity, be a violation of treaty, and a breach of publick faith.

Whether any or what acts of injustice were done to individuals, and their estates, is to me unknown,

* The act of Supremacy made the oath necessary before any person could sue out livery, or *Ouster le Main* from the King, i. e. delivery of the wards lands out of his hands, and before they could do him homage, but the feudal tenures were abolished at the restoration.

known. If such deeds existed, they are calamities incident to every great convulsion of property. They may throw a slur on the private oppressor, but never can bring imputation on the publick faith; and to that alone, as supposed to be pledged to the Roman Catholics of Ireland *at large*, doth the present question relate.

The first only of the articles of Limerick, relates to the Roman Catholics in general*, and to

* The ninth article indeed may perhaps be called a general one; it mentions the oath of allegiance to be taken by *all* such Roman Catholics as submit to his Majesty's government, and says it shall be that, *and no other*. But if this article relates to any but those then in arms against his Majesty's government, and can be supposed to extend to all of that communion in subsequent times, a construction which in my humble opinion is not supportable, they cannot with a good grace complain of its violation, since, when an oath of allegiance acknowledged by themselves to be unexceptionable, was not required from them, but offered to them in 1774 at their own desire by the act 13 and 14 George III. chap. 35. Not one thousand six hundred persons took it, as appears by lists returned to the House of Commons, in the session of 1787. I say, not one thousand six hundred persons took it, while it was a mere test of loyalty, and not a road to profit, (i. e. from 1774 to 1788). When, indeed, it qualified to take long leases, and to purchase lands, after the relaxing laws passed, much greater numbers flocked in, to demand a tender of this oath. The act of 1774, above mentioned, bears this noble and liberal title, which ought to have caught the attention, and commanded the gratitude of every description of men to whom it referred. *An act to enable*

to future generations; the rest concern individuals, or portions of men, then living, and therein described and their particular families. It might be maintained that the first relates merely to the free exercise of religion, and therefore any infringements on privileges regarding power and property, which were formerly possessed, afford subject of complaint only to the particular descendants of the persons above-mentioned. This construction is agreeable to my own sentiments; but least it should possibly be loaded with the charge of special pleading, (a charge, in my eyes, much more applicable to the contrary interpretation) it shall be waved, and we will meet the opponent on more open ground. And if we are able to prove

1st. That parliament was not bound to ratify these articles, unless they approved of them.

2d. That they never were *substantially* ratified, which proves disapprobation.

3d. That no such ratification could bind up the hands of future parliaments from forming new laws, if such were made necessary by the publick exigencies and emergencies.—*Very little* further assistance will be required to support my allegation.

In
able his Majesty's subjects, of whatever persuasion, to testify their allegiance to him. Dr. Butler, titular of Cathell, has proved in his writings that it caught attention.

In the first place, what did the Lords Justices covenant? The words of the 12th article are these: "The Lords Justices and General, do undertake that their Majesties will ratify these articles within the space of eight months, or sooner, and use their utmost endeavours that the same shall be ratified and confirmed in parliament." They had a delegated power, from whom?—from their Majesties only, not from the parliament. The crown had authorised them to declare, and undertake that, whatever articles they should make with the besieged in Limerick, would be by it ratified and confirmed within a reasonable time; The crown had authorised them to promise, that its utmost endeavours should be used to obtain the ratification and confirmation of them by parliament. But did the Lords Justices undertake that parliament would confirm them? or did their Majesties undertake any such thing? No; they undertake to use their own endeavours for the purpose; but it was impossible for them to promise success. Any promise of that kind would have been absurd and contradictory. Parliament surely was not bound to confirm, if it did not approve, and defect of confirmation proves disapprobation. Parliament was no more bound to confirm or approve this treaty, than any other treaty which the King might chuse to make; The adversary argument would prove too much, that they were bound to confirm all treaties. Surely men who listen to these arguments, must be grossly ignorant

rant of the constitution. An immense power, the whole executive power is lodged in the Crown, the power of war and peace, the right of making leagues and alliances, of forming treaties with foreign states, of granting terms to the enemy, vests in Majesty. To controul so immense a power, parliament retains the privilege of shewing both by word and deed its approbation or disapprobation of the royal mode of exercising this power, by addresses; by refusing supplies; by not following the treaty up with such acts as may be necessary to complete it, and which are at the same time solely within their province. Wretched indeed would be the constitution, if parliament were bound to approve and ratify whatever the king pleased to covenant in these great departments of war, peace, and negotiation. They would be like the parliament of France, mere instruments to register the royal edicts. Every day we hear of parliament disapproving of treaties of great magnitude. If then they have a power of refusing to ratify treaties made with other nations, it would be very strange indeed, if they could not refuse to ratify articles made with the King's rebellious subjects.

No idea of their disability, in this respect, was ever entertained by King William, or the Lords Justices by him deputed to conduct the treaty; for they modestly promise merely, that Majesty will use its endeavours to obtain the assent and approbation of Parliament; but they were too well acquainted

acquainted with the rights of the legislature, to take upon themselves unlimited responsibility. No such idea was entertained by the immediate parties to these articles. The simple enumeration of their names would refute such a calumny on their common sense. Lord Lucan and Sir Toby Butler will never be impeached in historical enquiry, for guiding transactions to which they were inadequate. They must have known, that the articles were accepted, subject to the risk of parliamentary disapprobation. They acceded to the articles at their peril; and if their necessities had not been such, as to make these articles desirable, even conditional as they were, and subject to parliamentary revision, they would have sustained a siege until a parliament could be called, and have waited for its definitive ratification. If it be said that they confided in the King, and that he deceived them by persuasions that he had more influence with his parliaments than he really possessed, it may throw a stain on the memory of King William, but never can discredit the publick faith. That was the conduct of the individual, not of the nation; but no spot can be discerned even on his character, seen through the medium of the compact of Limerick. His promises are Coextensive with his power, that he

* There was ample time to reduce them before they could have received succours, notwithstanding all that has been said to the contrary.—Vid. Ralph's History of England, vol. 2. p 308. and the proof he adduces.

he will *endeavour* to obtain the assent of the senate. He speaks not of certainty. He is even silent on the probability of success. What man, acquainted with the history of that monarch, constant of the opposition he encountered in parliament, apprised of the mortifications and disappointments he experienced from that body, which denied him the attendance of his favourite Dutch guards, will believe, that the able, the learned, and ingenious heads of the Popish party, who signed the articles of Limerick, depended implicitly on the success of his promised endeavours. The articles speak for themselves, and acknowledged that parliament had a power of refusal; otherwise the covenant to solicit their consent would be insensible. The act pretending to ratify these articles in 1697, proves by its preamble that the King never entertained a thought of recommending the ratification of the articles to parliament, except as far as they might judge them, consistent with the public welfare. If we can conceive them so absurd, as to attribute to the crown powers which it did not possess, powers which it disclaimed in the very treaty they signed, the only possible answer would be, that folly must not always impute its sufferings to injustice, but remember the law adage, *Domini tibus non Subvenit Lex*. They must in their slumbers have dreamt themselves into a belief, that the King could govern absolutely, not only his Irish, but his English parliament; bodies rather more inflexible than

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those

those of modern days. If the treaty should be unacceptable to his English parliament, it was not very probable, at that time, that William would have been successful in his application to the Irish. If there had been a parliament in being at the time of the treaty, some conjecture might be formed, that the king from his intrigues and interest in the two houses, was able to give the besieged, though not a constitutional, yet a certain private assurance of their agreement to his measures. But the treaty was signed 3d October, 1691, and the first Irish parliament of King William was assembled 5th October, 1692. Who could absolutely engage for the conduct of a parliament in embryo. What prince by his decrees could anticipate their resolutions, and bind not a minor, but an infant yet unborn. The more we revolve this idea, the more ridiculous it will appear. Suppose the King had agreed by these articles to give the Roman Catholics much greater privileges than they are pretended to contain. Suppose he had covenanted to give to their religion establishment, and, like King James, had consented that they should pay their tythes to their own priests—Suppose he had covenanted that they should stand on the same footing which they held antecedently to the acts of uniformity and supremacy, will it be maintained that parliament was bound to ratify his contract. No! (it may perhaps be said) for such a contract would have been a violation of the existing laws, and an assumption of the dispensing

pening powers. I answer, the King may as well promise, that parliament *will* alter laws in being, as that it *will not* alter them—that it will revoke existing laws, as that it will never make new ones upon the same subject. Parliaments have never thought themselves bound by such promises. That of Charles II. refused to ratify, in the act of settlement, the engagements which the King had entered into with the Irish in 1648, to which treaty a great number of the Irish themselves had refused to consent because their commissioners had not followed their instructions, to insist upon the free exercise of their religion *.

The parliaments of King William never thought themselves bound by his promise, if it had been meant, as it surely was not, to bind them, for they never did properly ratify the articles, nor were they ever in substance and in effect ratified by any parliament. The legislature therefore cannot be charged with breaking articles, which if never ratified, and the accusation of perfidy in neglecting to ratify them, I hope has been refuted.

That they never were substantially ratified, is a matter of fact, simple and easily ascertained. I appeal to the statute book. I know there was an act passed in the ninth year of the reign of King William, ch. 2. entitled an act for the confirmation of the articles made at the surrender of the

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* Vide Curry, vol 2. p. 359.

the city of Limerick. It appears from the preamble, that the King had recommended to them the confirmation of these articles, *or of so much of them as might consist with the safety and welfare of his majesty's subjects.* They think proper to omit the first article entirely. The only article which extends to the Roman Catholics in general, and under which the writers, who insist on the injuries done to that whole body by the violation of these articles, can pretend to support their assertion. The only article which relates to the free exercise of their religion.

In the second article, *which they declare to be ratified in the intendment therein, and no otherwise,* they omit the words inserted by the King in his ratification, and declared to be the meaning of both parties, at the time of signing the articles, *viz. and all such as are under their protection in the said counties,* thereby excluding from the benefit of the articles, a very great number of those persons for whose advantage they were framed.

The persons mentioned in the second article, were to have all *the privileges and immunities* to which they were entitled in the reign of Charles II. The act has limited these words thus, *privileges and immunities to their said estates of freehold and inheritance belonging.*

That part of the second article, which relates to exercising trades and professions is not ratified.

On that part which regards personal property, they put heavy limitations.

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The promise to give them possession of such of their lands as were in the hands of his Majesty, or his tenants, is highly qualified.

The seventh article, which relates to carrying arms, is not mentioned; nor the tenth, which provided that no person should lose the benefit of the articles on account of their violation by another.

The articles which they ratify, are the second, garbled in the manner described; the 3d, 4th, 5th and 6th, and these under several conditions.

There are also many additions as well as omissions in this act; many things inserted which are not in the articles. But the most satisfactory method for the reader will be, to compare it himself with the articles. They are both subjoined in the appendix.

Let us see what the sense of the times was upon this subject.

Lords Journal, pages 629, 631, 632, 633, 635,
vol. 1.

September 14th, 1697.

The commons sent up an ingrossed bill, entitled an act for the confirmation of articles made at the surrender of the City of Limerick, desiring the concurrence of the Lords.

September

September 18th, 1697.

This bill was read a second time in the Lords House.

Same day.

Ordered on motion, that the committee appointed to inspect this bill, search the journals, whether there be any precedents for hearing council at the bar of this house, on any petition against a publick bill.

September 20th.

The above-mentioned committee was revived.

September 21st, 1697.

Ordered on motion, that the Earl of Longford, Lord Viscount Lanesborough, and Lord Baron Kerry, do wait on the Lords Justices, and acquaint them, that this house desires their lordships will please to command, that the reasons which the Lords Justices and council gave the Lords Justices of England, why they transmitted the bill, entiled an act for the confirmation of articles made at the surrender of the City of Limerick, without the *additional words*, may be communicated to this house, if it shall seem to their Excellencies that the same may be done without inconvenience.

Same

Same day.

The above-mentioned Lords report to the house, that they had waited on the Lords Justices, who returned answer, that though their Lordships had great trust and confidence in the House of Lords, yet the matter of their message being new, and of great importance, they would return an answer with what convenient speed they could.

The Earl of Longford, standing in his place, relates to the house that he was commanded by the Lords Justices, to acquaint them that they have considered the message sent by this house to them on Tuesday last, and examined what it is that this house desires, and having found that nothing of the like nature hath ever been done, they do not believe that it is in their power to comply with the desire of this house. They can only inform this house concerning the bill for confirmation of the articles made at the surrender of the City of Limerick, that the Lords Justices of England did detain the bill before them, until they had laid before the King all the difficulties that concern the same, and after having received his Majesty's pleasure, have commanded them to present it to the parliament, informing them that it was his Majesty's pleasure the bill should pass in the same form it now is.

Resolved,

Resolved, that the answer of the Lords Justices, sent to this house by the Earl of Longford, be, and is hereby deemed and esteemed satisfactory to this house.

Ordered, on the question, that the ingrossed bill sent by the commons, intituled an act of the confirmation of articles, made at the surrender of the City of Limerick, be read a third time. Read accordingly.

Resolved on the question, that the ingrossed bill sent by the commons, intituled an act for the confirmation of articles made at the surrender of the City of Limerick, do pass into a law.

Ordered on motion, that such lords as please, may enter their protest to the last foregoing vote, with their reasons.

P R O T E S T.

We the lords spiritual and temporal, whose names are hereafter subscribed, do dissent from the aforesaid vote, and enter our protest against the same, for the reasons following :

1st. Because we think the title of the bill doth not agree with the body thereof; the title being an act for the confirmation of articles made at the surrender of the City of Limerick, whereas

no one of the articles is therein, as we conceive, fully confirmed.

2d. Because the said articles were to be confirmed in favour of them to whom they were granted, but the confirmations of them by the bill is such, that it puts them in a worse condition than they were before, as we conceive.

3d. Because this bill omits these material words, *and such as are under their protection in the said counties*, which are by his Majesty's letters patent declared to be part of the second article, and several persons have been adjudged within the said 2d article accordingly, who will, if this bill passeth into a law, be entirely barred and excluded from any benefit of the said second article by virtue of the afore-mentioned words; so that the words omitted being so very material, and confirmed by his Majesty, after a solemn debate in council, as we are informed, some express reason, as we conceive, ought to have been assigned in the bill, in order to satisfy the world as to that omission.

4th. Because several words are inserted in the bill which are not in the articles, and others omitted, which alter the sense and meaning of some parts of the articles as we conceive.

5th. Because we apprehend that many Protestants may, and will suffer by this bill, in their

just rights and pretensions, by reason of their having purchased and lent money upon the credit of the said articles, and, as we conceive, in several other respects.

Londonderry

Tyrone

Dungannon

S. Elphin

Will. Derry

Will. Clonfert

W. Killala

Jon. Offory

Tho. Limerick

Kerry

Howth

Kingston

Strabane.

The reader will not be surpris'd at seeing the above protest, or knowing that the articles of Limerick were not ratified, when he understands that those articles were totally disapproved by the great body of the Protestants of Ireland, who complain'd of most unreasonable lenity shewn to the Papists, and great injustice done to the Protestants, by that treaty; talk'd at the time of disputing its legality, since it deprived them of their private actions, and remedy for trespasses and wrongs done. Exclaim'd that attainders were suspended, forfeitures vacated, pardons improperly granted, all in the most unheard of and unwarrantable manner. The general cry was, that every injury and prejudice was done by the framers of the articles to his Majesty's faithful Protestant subjects, while the greatest favour was absurdly and wickedly shewn to rebels, who had used all the efforts in their power to ruin the constitution and Protestant

tant interest; and that there was no necessity for entering into this compact*.

That the Commons of Ireland never intended, or thought of ratifying it, appears also from their resolution of 13th September, 1697†.

A petition of Robert Cusack, Gentleman, Capt. Francis Segrave, and Capt. Morris Eustace, in behalf of themselves and others‡ comprised in the articles of Limerick; setting forth, that in a bill now before this house, for confirmation of the said articles, there are several clauses which will frustrate several parts of the articles, and deprive

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* Vide the universal testimony of the historians who have written on the events of those times.—Ralph, vol. 2. p. 307, 308.—Burnet. Hist. own time. vol. 2. p. 81.—Tyndall. Cont. Rapin. vol. 17. p. 189.—Smollett, book 8. ch. 3. sec. 13.—Mrs. Macaulay's Letters, p. 25.

In 1690, a clause was introduced, in England, into a bill, empowering the King to make such articles with the Irish, then in arms, as he should think fit, but *this clause was rejected*. This proves their sense of the necessity of such a clause, and their refusal to grant the King the power.

In 1693, they addressed the King, complaining of the great favour shewn to Papists by those articles.—Vid. Tyndal. Contin. of Rapin, vol. 17. p. 111 and 401.

† Com. Jour. vol. 2. p. 910.

‡ This language, as well as every expression to be found on record relating to the subject, proves that it never was in those times imagined that *all* the Papists of Ireland were entitled to the benefit of the articles of Limerick. The parliaments of both kingdoms were perpetually complaining of the benefit of these articles being extended to persons not comprized, nor intended to be comprized in them.

the petitioners of the benefit of the same; and, if passed, will tend to the ruin of some, and prejudice of all persons entitled to the benefit of said articles; and praying to be heard by their council to the said matters at the bar of the house.

Resolved, *Nim. Con.* That the said petition be rejected.

Thirdly. Let us suppose that they were ratified in their full extent, will any man in his senses aver, that the acts and proceedings of one parliament can prevent their successors from altering old, or enacting new laws, as the publick exigencies may require. If the treaty had been ratified, they certainly would have been in honour bound to keep and maintain it inviolate, while circumstances remained the same. But if imminent danger to the state called for new laws, if open infringement of the articles on the part of the vanquished discharged the victors from every bond, who would charge the state with treachery, and on whom would the criminality fall? If again, the letter of the articles served as a cover for artifice, while the spirit was totally neglected; if the distance of events conceals from our vision those minuter blotches, in which our ancestors discerned the seeds of design and rebellion, we must condemn our presumptuous decisions on their maturest councils. Possibly the enactment of these very laws prevented those designs from starting

starting into day, whose non-appearance furnishes at present so plausible an argument to their reprovers. Political wisdom could not wait for the completion of events which might baffle its remedies, nor would common sense prefer correcting to preventive medicines. What says my constant Hippocrates, Dr. Curry? "It were a hard case indeed, if persons empowered with trust could bind the commonwealth to acts prejudicial and destructive to their preservation, interests, and liberty." [Vol. i. 359.] Such would have been his just critique on that foolish legislature, that *parliamentum indoctum* which had pored with silly reverence on the parchments of their ancestors, while the countersigners of the deeds were undermining their titles, and plotting against their preservation, interests, and liberty. That no parliament can bind its successors to acts prejudicial to the publick welfare, or restrain them from acts evidently useful and necessary, appears to me an axiom. To know what will be the tendency of actions in all future contingency, is the privilege of Infinite Prescience and absolute wisdom. The short ken of mortal eye shall never measure the prospects of posterity. King William recommended the ratification of his treaty to parliament*, on condition of its compatibility with the publick welfare. That parliament could only recommend it to succeeding generations under the same limitation.

Sir

* Vide preamble to the ratifying act, 1697.

Sir Toby Butler, arguing before the House of Commons on behalf of the petitioners against the penal act, 3d Anne, comprises the great body of his reasoning in the following syllogism*. Whatever shall be enacted to the prejudice or destroying of any obligation, covenant, or contract in the most solemn manner, and for the most valuable consideration entered into, is a manifest violation and destruction of every such obligation, covenant, and contract; but the passing that bill into a law, will evidently and absolutely destroy the articles of Limerick and Galway to all intents and purposes; therefore the passing that bill into a law, will be a breach of those articles, and consequently of the publick faith plighted for performing those articles.

This argument is quoted at large by Dr. Curry, from a book or pamphlet entitled, Account of the Debates on the Popery Laws (2d Anne) which never has come into my hand. Of the reply to it, he has given a most brief, and imperfect sketch. But with all deference to the reputation of the eminent advocate who relied upon it, it seems to be either false, or, if true, consists of truths irrelative and inapplicable.

If he meant by his major to propound this truism, which the words literally import; that whatever is enacted to the destruction of any
covenant,

* Vide Curry's appendix.

covenant, is the destruction of that covenant; And by his minor, that the law then under consideration, if enacted, would destroy the effects of the articles of Limerick. Then conceding this last proposition to be true, which may well be denied, I appeal to logicians, whether any conclusion follows but this simple one, that the articles of Limerick would be *destroyed* by that law; but when he draws this complex conclusion, "therefore the passing that bill into a law, will be a breach of those articles, and consequently of the publick faith," who does not see that it follows not from these premises*. Who does not see the sophism, which consists in confounding mere destruction with treacherous violation, and includes this *Petitio Principii*, every destruction of a compact is a breach of faith, a position which I utterly deny, and the falsehood of which I have endeavoured above to prove. There are a thousand cases in which a compact may be destroyed without being violated, if violation be taken in a bad sense, and means breach of faith. If violation be understood as it usually is, in a bad sense, then it ought not to be confounded with destruction. If the words are synonymous, then guilt is not necessarily annexed to the idea signified by either of these words. In neither case will Sir Toby Butler's conclusion follow.

The

* To support that conclusion, the major must be thus understood, whatever is enacted to the destruction of any covenant, is a violation of that covenant, and a breach of faith.

The law of the Medes and Persians, which altered not, if that principle, literally and indefinitely understood, was certainly the most absurd of human Codes. Laws must vary with manners and with times. Covenants must be interpreted agreeably to common sense, and mutual benefit. If one party does not stand to the covenant, the other is released, and no human being will be bound to his own ruin by the letter of a compact whose spirit is evaporated, until the law of self-preservation becomes inferior to that of verbal criticism.

The articles could not in any common intendment be interpreted without this implied proviso, that they were to stand, unless some public necessity required an alteration, or unless the Papists broke them on their part. It is said they were perfectly unoffending. The weight of that assertion shall be considered below. In the mean time, it contains the very concession which my present argument requires, viz. that if they were unquiet, new and severe laws were justifiable, and discover no breach of honour.

The parliaments of King William do not seem to have had the least conception of this new fangled doctrine, that they were prohibited by the articles of Limerick from passing penal laws.

The

The act called the Ratifying Act, is preceded immediately in the statute book by one entitled an act for banishing all Papists exercising ecclesiastical jurisdiction, and all regulars of the Popish clergy from the kingdom, and followed by an act to prevent Protestants from intermarrying with Papists. The articles covenanted that the Roman Catholicks should enjoy such privileges as are consistent with the laws of Ireland, or as they did enjoy in the reign of Charles II. Immutability is not consistent with the laws of Ireland, nor was it in their privilege in the reign of Charles II. They were then liable, like other subjects, to the possible discretionary exertion of legislative power, competent to frame new laws, affecting the whole or any particular description of men in the community. So they were after the revolution. If penal laws, similar to those of Anne, had passed in the time of Charles, who could have complained of breach of faith. On what diversity of circumstances then are the complaints in her reign founded. There was no breach of faith in the latter case, more than would have been in the former. *Non Meus hic Sermo est.* It is the very language of the rational answer given to Sir Toby Butler, and the petitioners against the act second of Anne. When the petitioners council was heard before the Lords against that bill, they told their Lordships, "That it had been objected by the commons, that the passing that bill could not be a breach of the articles of Limerick, as had been suggested; because the persons therein comprized were only

to be put into the same state they were in the reign of Charles II. and because that in that reign, there was no law in force which hindered the passing any other law thought needful for the safety of the government; that the commons had further said, that the passing this bill was needful at present for the security of the kingdom, and that there was not any thing in the articles of Limerick that prohibited their so doing.

It was admitted on the part of the petitioners, that the legislative power cannot be confined from altering or making such laws as shall be thought necessary, for securing the quiet and safety of the government; and in time of war or danger, or when there shall be just reason to suspect any ill design to disturb the public peace, no articles or previous obligations shall tie up the hands of the legislators from providing for its safety, or bind the government from disarming or securing any who may be reasonably suspected of favouring or corresponding with its enemies, or to be otherwise guilty of ill practices, "or indeed to enact any other law," said Sir Stephen Rice, that may be absolutely needful for the safety and advantage of the public; such a law cannot be a breach of these, or any other like articles.

No admissions could be desired to strengthen what has been advanced, more full, more opposite, than those of the petitioners.

They then proceed in one word to state their objections. But then such laws, say they, ought to

to be general, and should not single out, or affect any particular part or party of the people, who gave no provocation to any such law, and whose conduct stood hitherto unimpeached ever since the ratification of the aforesaid articles of Limerick.

In this last paragraph, we see the ultimate retreat of this fugitive, desultory, accusation. Granting, say they, that parliament might consistently with honour and good faith, have made new laws if the publick exigencies required them, still the publick word has been broken, because no such necessity existed. Much has been said of the uniform loyalty, and peaceable disposition of the Catholics, ever since the accession of the Hanover family. Far be it from me to deny the truth of this encomium. But it must be observed, that in demonstrating these assertions of loyalty, they labour under peculiar disadvantages. Their enemies might impute this quietness to the very laws which they condemn. Their enemies might call upon them to shew, that there ever has been a period, since that epocha, when they could have excited commotion with probability of success, or without certainty of ruin. An adversary appeal might be made to the publick records, whether any assent, until of very late years, has been given to these positions by the legislature*. I speak not of my own opinion. I

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* That the legislature have not till of late acknowledged the loyalty of the Catholics, appears from the apprehensions entertained of a plot about 1731. Vide Commons Journals—From the disarming act of 1740.

From

do verily believe they have been actuated by sentiments of true loyalty and affection to the constitution, whose benefits they have felt, and to the reigning family, under the beams of whose indulgence their hopes have ripened to their present maturity*. But, in truth, this question is irrelative. The matter now in dispute, is not whether they should have been sooner repealed, but whether the public exigencies required their enactment. That is, in other words, whether the state of affairs, between the date of the articles of Limerick†, and the ninth year of the reign of Queen Anne, (within which period most of the considerable penal laws were passed) rendered these acts necessary. Mr. O'Leary, and Mr. Curry tell me, it did not; and the latter defy us to shew a single act of misconduct within those limits

From the apprehensions which Lord Chesterfield expressed of them in the year 1745, in his speech at the opening of the session, where he terms them persons, whose speculative opinions would only deserve pity, if their pernicious influence upon civil society, did not both demand and authorise restraint.

From the very cold observation, for I cannot call it commendation which he made on their conduct, in his speech at the end of that session.

From the opinion declared by the privy council, on the Duke of Bedford's consulting them in 1758, that no licence ought at that juncture to be granted to any Papist to bear arms, in consequence of which no licence was granted from 1758 to 1766.

* Dr. Butler of Cashell is of a different opinion, for he says, that even in 1774 they hesitated about taking a simple oath of allegiance, unconnected with any thing affecting their religion.

† All the odium of the penal laws has been thrown on Queen Anne; and Mr. O'Leary artfully interrogates us, how can that party be fond of the Stewarts, under one of whom
the

limits of time*. The preambles to these acts of parliament, reciting their causes which swayed the legislature, tell me it did. The journals of parliament,—the voice of history,—confirm the veracity of the statute book.—Which am I to believe? If I consult probability, its rules will tell me, that disquiet and disorder are extremely natural in a people recently subdued to compulsory allegiance,—driven by the sword to subscribe themselves his Majesty's liege subjects—smarting with wounds, and complaining of plundered property, and illegal forfeiture, while, as yet length of time, and lenity of usage, had not extinguished hope of change, or conciliated affection. If complaint, thus circumstanced, swelled to violence, or betrayed symptoms of discontent, whose effects it would be madness to await, we should behold this common series of causes and effects without surprize. When the greatest authority asserts the particular fact, we have attained the highest degree of probability. If it be said, the legislature was interested to calumniate the suffering party, it must be allowed the sufferers were as much interested to calumniate them. Indeed this charge of interest, falls with least weight on the defenders of coercive measures.

Plain

the penal laws were established? Measures do not always take their origin from the throne; but a large portion of this tribute is due to King William, under whom were passed, an act to prevent intermarriages between Papists and Protestants—an act to prevent Papists from being solicitors—an act to banish Popish Priests—an act for disarming Papists—an act to restrain foreign education, &c. &c.

* Carry, vol. ii. p. 239.

Plain interest is legible in the attempted proofs of innocence, advanced by the impugners of the restrictive system ; for on those evidences were built their claims of relaxation, and their hopes of power. But our invention is puzzled to assign any motive but necessity, for the conduct of their opponents. Do not let us be too apt to think our fathers fools. They knew as well as we, that the penal laws must diminish in a certain degree the wealth and strength of the country, — must diminish the value of lands, and lessen the worth of their own estates *. Self-interest must have compelled them to lament the laws, which self-preservation enjoined. To preserve their estates, they consented to load them with this incumbrance. It never could have been their interest to consent to laws tending to weaken and impoverish the kingdom at large, if they had not known that kingdom to be divided against itself, and apprehended danger to their titles, to their religion, and to the Protestant ascendancy. If they had these apprehensions, they were justifiable on principles of self-defence. If they were even mistaken, and misled by groundless fears, who can censure a conduct conformed to the persuasions of their own minds. What have our own eyes beheld in later days ! As soon as men were persuaded, that the firm establishment of the House of Hanover on the throne, and long experience of its mild and gentle rule, had extinguished the hopes of its enemies, and converted

* What could they gain by the gaveling laws. No property was by any of the penal laws taken from Papists, nor any money thrown into the hands of Protestants.

verted hatred to friendship; as soon as they conceived that the laws might be relaxed without danger to the Protestant interest, and the settlement of property,—they seized with avidity the earliest occasion; With returning safety, relaxation dawned, and every Protestant, who had monied or landed interest, loudly avowed his hopes of reciprocal advantage; of benefit to himself, linked with privilege to the Catholic. The same must have been the wishes of their predecessors, if danger had not tied their hands. I hear it whispered, they procured their estates by wrong, and formed laws to retain them by force. It is a gratuitous position, and requires proof—is probably true in some instances,—false in most. But the question now is, whether their property was in danger; if it was, they framed these laws to preserve the present settlement of property; and whoever is a friend to that settlement, must approve their conduct, which never could have been an infringement of the articles of Limerick, unless those articles had covenanted, that they should leave unprotected, and relinquish to its old possessors all that property *which with so much expence of blood and treasure they had purchased**.

Whatever assertions then may be made at this distance of time, denying the necessity of the penal laws, we must conclude that those who lived at the time of their enactment, and were most immediately

* These are the words used by the Lord Lieutenant to the first parliament, after the revolution, when speaking of the danger they had run, of losing all their property if James had been successful.

immediately interested, were the best judges of that necessity. They assure us, in the strongest language, that some such provisions were indispensably requisite; among a thousand expressions of this sentiment, let us select one from the resolutions of the House of Commons in 1697:

Resolved, *Nem. Contradicente*, That the Papists of this kingdom do still retain the same inclinations and resolutions of extirpating the Protestant religion and interest in the kingdom, and for severing the same from the imperial Crown of England.

Resolved, *Nem. Contradicente*, That *other laws, than what we now have, are absolutely necessary* for the preservation of his Majesty's royal person, and the better securing of this kingdom to England, and the Protestant religion and interest here.

Many more of a similar tendency, may be found in the appendix. Such energetick phrase must have been prompted by imminent necessity; nor will it be believed that the parliament of Ireland wished or dared, in the face of the world, to fix the seal of notorious truth to declarations stamped with notorious falsehood.

Of the general disposition of a people, no stronger evidence can be produced than public record, the great basis of history. If minuter facts, verifying these sacred archives, have disappeared, the lapse of time covering with mist its rapid stream, the negligence of peace, the want of historians*, amply account

* The want of historians will not be denied, when it is considered that we are compelled to quote from such writers as Tindall and Smollett.

account for this deficiency. Even the non-existence of such open deeds, would not necessarily condemn a criminal code, possibly occasioned by secret intelligence of immature designs, thus rendered abortive by wholesome anticipation. Weak is the plea of innocence, produced by incapacity of wrong. But, whoever looks into the appendix, will find great reason to imagine that facts, justifying the policy of coercion, abounded in the reign of King William and Queen Anne. Facts, to which the petitioners, in 1703, opposed a simple protestation of innocence, insufficient, as appears by the event, to influence the belief of the commons; and even in subsequent times virtually relinquished by their own party. For it is very observable, that from the reign of Queen Anne, (if we may rely upon Dr. Curry's authenticity, whose friends will surely not discredit their own witness) to the accession of our present most gracious sovereign, the complaint of breach of faith, the charge of violation of the articles of Limerick was totally waved and deserted. At the commencement of the present reign the accusation was revived, when its refutation was forgotten, and the facility of defence diminished by the lapse of half a century. The novelty of this spacious argument caught the publick mind, prompt to listen, careless to examine.

It became the universal watch word, the symbol of union, among the claimants of relaxation,

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 * By an address of the Roman Catholics under the administration of Lord Halifax.

tion, echoed by all the voices of complaint, and even transmitted to the royal ear through a medium of a Chief Governor.

Would not the Roman Catholicks with more safety and wisdom have rested their claims as they did in the reign of the two first princes in the House of Hanover, on present loyalty, on their own merits, on the indulgence of the legislature, than on charges of perfidy in former parliaments, supported by their own protestations, in opposition to the solemn protestations of those very parliaments*.

Thus have I endeavoured to vindicate the Protestants of Ireland, from a charge which has been carried even to the foot of the throne. Let me deprecate every suspicion, that the attempt has been dictated by malice or intolerance. It is not an attack on Catholicks, but a defence of Protestants. Let the Catholicks of these days rely on the conduct of their body, since the Hanover accession, and not found their claims to parliamentary favour, in accusations of parliamentary treachery. If to wipe off calumnies against the Church and Protestant interest, be intolerance and persecution, the meaning of words is unknown. But by some fatality, for many years past, establishment with the name and insignia of pre-eminence, in a country of universal

* All the reasonings in the text respected political morality, and publick honor; But the statesman would add, that even admitting the articles of Limerick to have been violated, it is impossible at this distance of time, to repair the breach, without overturning many fundamental acts of state, and throwing every thing into confusion. *Ergo.* To repeal the acts of Uniformity and Supremacy, would be a breach of the King's coronation oath, and a dissolution of the union with Scotland.

sal freedom, has found toleration to itself: denied, suffering, and oppressed, her complaints in the language of insulting raillery have been termed the haughty voice of tyranny and persecution. She is accused of exciting feuds, and dissensions; well might she ask, an *hec Rixa, ubi tu pulsas, Ego Vapulo tantum*. If that species of busy idleness, which agitates some perturbed spirits, had dragged forward these questions, unprovoked, general censure would inevitably have punished the disturber of publick tranquillity. But they were forced upon us in times of danger and perplexity, by just impatience of unfounded calumny, and compelled opposition to popular prejudice, now manifested in open acts of violence. They were forced upon the venerable author, to whom their origin is so frequently and so falsely imputed, who first dared to stand forth the vindicator of an oppressed and insulted Church, which seemed afraid to speak its innocence, while men gazed upon its ruin with silent astonishment, stupified by misery to an oblivion of the succours offered by reason. Since that time a succession of various attacks has demanded repeated, diversified defence; The energy of repulse may possibly have done some violence to the assailants, but can afford the first aggressor no subject of complaint.

If notwithstanding, abuse must follow every defence of the established religion, and antient constitution

constitution and policy, it will lie lightly on the mind, when severed from the weight of self condemnation. Mr. Locke says, no man can bear the dislike of his own club. But I should be abused in company with the men, whom of all others I most respect and esteem.

APPENDIX.

A P P E N D I X.

(No. I.)

The CIVIL ARTICLES OF LIMERICK, exactly printed from the Letters Patent, wherein they are ratified and exemplified by their Majesties, under the Great Seal of England.

GULIELMUS & Maria Dei gratia, Angliæ, Scotiæ, Franciæ & Hiberniæ, Reg & Regini, fidei defensores, &c. Omnibus ad quos presentes litræ nostræ pervenerint salutem, inspeximus irrotulament, quarund, literarum patentium de confirmatione, geren. dat. apud Westmonasterium vicifimo. quarto die Februarii, ultimi præteriti in cancellar. nostr. irrotulat. ac ibidem de recordo remanen in hæc verbo.

William and Mary by the Grace of God, &c. To all whom these presents shall come greeting. Whereas certain articles bearing date the third day of October last past, made and agreed on between our Justices of our kingdom of Ireland, and our General of our forces there on the one part, and several Officers there, commanding within the city of Limerick in our said kingdom, on the other part. Whereby our said Justices and General did undertake that we should ratify those articles within the space of eight months,

or

or sooner, and use their utmost endeavours that the same should be ratified and confirmed in parliament. The tenour of which said articles is as follows, viz.

ARTICLES AGREED UPON

The third day of October, One Thousand Six Hundred and Ninety One—Between the Right Honourable Sir Charles Porter, Knight, and Thomas Coningsby, Esq. Lords Justices of Ireland, and his Excellency the Baron de Ginckle, Lieutenant General, and Commander in Chief of the English Army on the one part, and the Right Honourable Patrick Earl of Lucan, Piercy Viscount Gallmoy, Colonel Nicholas Parcel, Colonel Nicholas Cusack, Sir Toby Butler, Colonel Garret Dillon, and Colonel John Brown on the other part, in the behalf of the Irish inhabitants in the City and County of Limerick, the Counties of Clare, Kerry, Cork, Sligo, and Mayo, in consideration of the surrender of the city of Limerick, and other agreements made between the said Lieutenant General Ginckle, the Governor of the City of Limerick, and the Generals of the Irish Army, bearing date with these presents, for the surrender of the City, and submission of the said army, it is agreed that,

1st. The Roman Catholicks of this kingdom shall enjoy such privileges in the exercise of their

their religion as are consistent with the laws of Ireland, or as they did enjoy in the reign of King Charles the second; and their majesties as soon as their affairs will permit them to summons a parliament in this kingdom, will endeavour to procure the said Roman Catholicks such further security in that particular as may preserve them from any disturbance upon the account of the said religion.

2d. All the inhabitants or residents of Limerick, or any other garrison now in the possession of the Irish, and all officers and soldiers now in arms, under any commission of King James, or those authorised by him, to grant the same in the several counties of Limerick, Clare, Kerry, Cork, and Mayo, or any of them; and all the commissioned officers in their majesties quarters, that belong to the Irish regiments now in being, that are treated with and who are not prisoners of war, or have taken protection, and who shall return and submit to their majesties obedience; and their and every of their heirs, shall hold, possess, and enjoy all and every their estates of freehold and inheritance; and all the rights, titles and interests, privileges and immunities, which they and every, or any of them held, enjoyed, or were rightfully and lawfully entitled to in the reign of King Charles II. or at any time since, by the laws and statutes that were in force in the said reign of King Charles II. and shall be put in possession by order of the government,

ment, of such of them as are in the King's hands, or the hands of his tenants, without being put to any suit or trouble therein; and all such estates shall be freed and discharged from all arrears of crown rents, quit rents, and other public charges, incurred and become due since Michaelmas, 1688, to the day of the date hereof; and all persons comprehended in this article, shall have, hold, and enjoy all their goods and chattels, real and personal, to them, or any of them belonging, and remaining either in their own hands or the hands of any person whatsoever, in trust or for the use of them, or any of them; and all and every the said persons, of what profession, trade, or calling soever they be, shall and may use, exercise, and practice their several and respective professions, trades and callings, as freely as they did use, exercise and enjoy the same in the reign of King Charles II. provided that nothing in this article contained be construed to extend to, or restore any forfeiting person now out of the kingdom, except what are hereafter comprised; provided also that no person whatsoever shall have or enjoy the benefit of this article, that shall neglect or refuse to take the oath of allegiance*, made by act of parliament in England, in the first year of the reign of their present majesties, when thereunto required.

3d.

* I. A. B. do sincerely promise and swear that I will be faithful, and bear true allegiance to their Majesties King William and Queen Mary. So help me God.

3d. All merchants, or reputed merchants of the city of Limerick, or of any other garrison now possessed by the Irish, or of any town or place in the counties of Clare or Kerry, who are absent beyond the seas, that have not bore arms since their Majesties declaration in February, 1688, shall have the benefit of the second article in the same manner as if they were present; provided such merchants, and reputed merchants, do repair into this kingdom within the space of eight months from the date hereof.

4th. The following officers, viz. Colonel Simon Lutterel, Captain Rowland White, Maurice Eustace of Yermanstown, Chievers of Maystown, commonly called Mount Leinster, now belonging to the regiments in the aforesaid garrisons and quarters of the Irish army who were beyond the seas, and sent thither upon affairs of their respective regiments, or the army in general, shall have the benefit and advantage of the second article, provided they return hither within the space of eight months from the date of these presents, and submit to their Majesties government, and take the above-mentioned oath.

5th. That all and singular the said persons comprised in the second and third articles, shall have a general pardon of all attainders, outlawries, treasons, misprisions of treason, premunires, felonies, trespasses, and other crimes and misdemeanours whatsoever by them, or any of them,

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committed

committed since the beginning of the reign of King James II. and if any of them are attainted by parliament, the Lords Justices, and General, will use their best endeavours to get the same repealed by parliament, and the outlawries to be reversed gratis, all but writing clerks fees.

6th. And whereas these present wars have drawn on great violences on both parts; and if leave were given to the bringing all sorts of private actions, the animosities would probably continue that have been too long on foot, and the public disturbances last: for the quieting and settling therefore of this kingdom, and avoiding those inconveniences which would be the necessary consequence of the contrary, no person or persons whatsoever comprised in the foregoing articles, shall be sued, molested, or impleaded at the suit of any party or parties whatsoever, for any trespasses by them committed, or for any arms, horses, money, goods, chattels, merchandizes, or provisions whatsoever by them seized or taken during the time of the war. And no person or persons whatsoever in the second or third articles comprised, shall be sued, impleaded, or made accountable for the rents or mean rates of any lands, tenements or houses by him or them received or enjoyed in this kingdom, since the beginning of the present war to the day of the date hereof, nor for any waste or trespass by him or them committed in any such lands, tenements, or houses: and it is also agreed that this article shall be mutual and reciprocal on both sides.

7th.

7th. Every nobleman and gentleman, comprised in the said second and third articles, shall have liberty to ride with a sword and case of pistols if they think fit, and keep a gun in their houses, for the defence of the same, or for fowling.

8th. The inhabitants and residents in the city of Limerick, and other garrisons, shall be permitted to remove their goods, chattels, and provisions out of the same without being viewed and searched, or paying any manner of duties, and shall not be compelled to leave the houses or lodgings they now have, for the space of six weeks next ensuing the date hereof.

9th. The oath to be administered to such Roman Catholics as submit to their Majesties government, shall be the oath abovesaid, and no other.

10th. No person or persons, who shall at any time hereafter break these articles, or any of them, shall thereby make, or cause any other person or persons to forfeit or lose the benefit of the same.

11th. The Lords Justices and General, do promise to use their utmost endeavours that all the persons comprehended in the above mentioned articles, shall be protected and defended from all arrests and executions for debt or damage for the

space of eight months, next ensuing the date hereof.

12th. Lastly, the Lords Justices and General do undertake that their Majesties will ratify these articles within the space of eight months or sooner, and use their utmost endeavours that the same shall be ratified and confirmed in parliament.

13th. And whereas Colonel John Brown stood indebted to several Protestants, by judgments of record, which appearing to the late government, the Lord Tyrconnel, and Lord Lucan, took away the effects the said John Brown had to answer the said debts, and promised to clear the said John Brown of the said debts; which effects were taken for the publick use of the Irish and their army: for freeing the said Lord Lucan of his said engagement passed on their public account for payment of the said Protestants, and for preventing the ruin of the said John Brown, and for satisfaction of his creditors, at the instance of the Lord Lucan, and the rest of the persons aforesaid; it is agreed that the said Lords Justices, and the said Baron de Ginckle, shall intercede with the King and Parliament, to have the estates secured to Roman Catholics, by articles and capitulation in this kingdom, charged with, and equally liable to the payment of so much of the said debts, as the said Lord Lucan, upon stating accounts with the said John Brown, shall certify under his hand what the effects taken from the said Brown amount unto; which accompt is to be stated, and the balance

balance certified by the said Lord Lucan in one and twenty days after the date hereof.

For the true performance hereof we have hereunto set our hands. Present Scravenmore, H. Maccay, T. Talmash, Charles Porter, Thomas Coningsby, Baron de Ginckle.

And whereas the said City of Limerick hath been since in pursuance of the said articles surrendered unto us, Now know ye, that we having considered of the said articles, are graciously pleased hereby to declare, that we do for us, our heirs, and successors, as far as in us lies, ratify and confirm the same, and every clause, matter and thing therein contained. And as to such parts thereof, for which an act of parliament shall be found to be necessary, we shall recommend the same to be made good by parliament, and shall give our royal assent to any bill or bills that shall be passed by our two houses of parliament to that purpose. And whereas it appears unto us, that it was agreed between the parties to the said articles, that after the words, Limerick, Clare, Kerry, Cork, Mayo, or any of them in the second of the said articles, the words following, viz. "And all such as are under their protection in the said counties" should be inserted and be part of the said articles. Which words having been casually omitted by the writer, the omission was not discovered till after the said articles were signed, but was taken notice of before the second town was surrendered: and that our said Justices and General, or one of them, did promise that the said clause should be
made

made good, it being within the intention of the capitulation, and inserted in the foul draft thereof. Our further will and pleasure is, and we do hereby ratify and confirm the said omitted words, viz. "And all such as are under their protection in the said counties," hereby for us, our heirs and successors, ordaining and declaring, that all and every person and persons therein concerned, shall and may have, receive, and enjoy the benefit thereof in such and the same manner, as if the said words had been inserted in their proper place in the said second article, any omission, defect or mistake in the said second article, in any wise notwithstanding. Provided always, and our will and pleasure is, that these our letters patent shall be enrolled in our Court of Chancery in our said kingdom of Ireland within the space of one year next ensuing. In witness, &c. witness ourself at Westminster, the twenty-fourth day of February, anno regne regis *E* regine *Gulielmi et Mariæ* quarto per breve de privato sigillo. Nos autem tenorem premissor. predicti. Ad requisitione maltornat. general domini regis, et domina regine proregno *Hiberniæ*. Duximus exemplificand. per presentes. In cujus rei testimonium has litteras nostras fieri fecimus patentes. Testibus nobis ipsis apud *Westmon.* Quinto die Aprilis, annoq. regni eorum quarto.

Bridges.

Examinat. { S. Keck. } In Cancel.
per nos. { Lacon William Childe. } Magistros.

N. B.

N. B. The Military Articles were not inserted, as they related to matters immediately to be done, and have no relation to the present day. It has been said that the first article, giving liberty to all persons, who might choose to do so, to go abroad; but there is reason to think this is much exaggerated, and that the Irish troops, who were not conveyed abroad, stayed at home through choice on account of some jealousy their officers entertained, in consequence of hearing they should not retain their rank in the French service. This is similar to other numerous misrepresentations on the subject. Vide Ralph's History of England. vol. 2d. p. 307, 308.

Burnet and other historians say these articles were strictly complied with, though all the Protestants of Ireland cried out against them as too favourable.

An Act for the Confirmation of Articles made at the Surrender of the City of Limerick.

WHEREAS divers doubts have arisen on the articles made at the treaty for the late surrender of the City of Limerick, the third day of October, one thousand six hundred and ninety-one, and concerning the true intent and meaning of several parts thereof: And whereas your Majesty hath been graciously pleased to recommend to your parliament, that the said articles, or so much of them as may consist with the safety and welfare

fare of your Majesty's subjects of this kingdom, may be confirmed by authority of this present parliament, we the lords spiritual and temporal, and the commons in this present parliament assembled, having due regard to your Majesty's honour, for declaring the true sense and meaning of the said articles, and taking away all occasions of doubt for the time to come, do most humbly beseech your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by authority of the same, that the second article in the aforesaid articles mentioned, be and is hereby confirmed and ratified in the sense and intendment following, and no otherwise (that is to say) that all the inhabitants or residents of Limerick, or any other garrison in the possession of the Irish, at the time of making the said articles, and all officers and soldiers then in arms, under any commission of the late King James, or those authorised by him to grant the same, in the several Counties of Limerick, Clare, Kerry, Cork and Mayo, and all the commissioned officers in the quarters of his Majesty, that belonged to the Irish regiments then in being, that were treated with, and who were not prisoners of war, nor had at any time, before that time, enjoyed the benefit of protections, for the safety of themselves or their goods and families, which said officers have in pursuance of the

the said articles, returned to their obedience, and submitted to his Majesty, and to her late Majesty Queen Mary, such inhabitants or residents of Limerick, or any other garrison aforesaid; such officers and soldiers respectively as aforesaid, and their and every of their heirs, shall hold, possess, and enjoy, all and every their estates of freehold and inheritance, and all the rights, titles, and interests, privileges and immunities, of the said estates of freehold and inheritance belonging, which they, and every or any of them held, enjoyed, or were rightfully and lawfully entitled to in the reign of King Charles the second, or at any time since by the laws and statutes that were in force in the said reign of King Charles the second; and such possession as was given to the said inhabitants, officers, and soldiers, in whose behalf the said articles were as aforesaid made, of lands then in his Majesty's hands, or in the hands of his tenants, by order of the then government under his Majesty, is, as to the possession only, and no more, confirmed and ratified by the authority of this present act, against his Majesty, his heirs and successors; and all such estates of freehold and inheritance, shall be freed and discharged, and by the authority of this present act, are declared and enacted to be, and stand freed and discharged, of and from all arrears of crown rents, quit rents, and other publick charges incurred, or become due, from and after the feast of St Michael the Archangel, in the year of our lord one thousand six hundred

and eighty eight, to the day of the date of the said articles,

2d. Provided always, and be it enacted by the authority aforesaid, that this act, or any thing therein contained, shall not extend or be construed to extend, to the aforesaid persons, in whose behalf the aforesaid articles were made, or any of them; but that the same shall extend and be construed to extend to the restoring the said persons, and every of them, to their said estates of freehold and inheritance, against his Majesty, his heirs and successors, in as large and ample manner as they should have enjoyed the same, had they not been guilty of the rebellion aforesaid, and not otherwise, or in any other manner; neither shall this act extend, or be construed to extend to alter or avoid the possession of any such lands, tenements or hereditaments, as have been recovered, or gained by any of his Majesty's subjects, from or against the said persons in whose behalf the said articles were made, or any of them at any time since the date of the said articles; any thing in this act to the contrary notwithstanding.

3d. And be it further enacted by the authority aforesaid, that all and every person and persons comprehended in the said second article, in the said articles mentioned, shall have, hold, and enjoy all his and their goods and chattels real and personal, to them, or any of them, at the time of making the
said

faid articles belonging, and which then or at that time remained, either in their own hands or in the hands of any other person or persons whatsoever in trust for them, or for the use of them or any of them; and the said goods and chattels, real and personal as aforesaid, shall have, hold, and enjoy, against his Majesty, his heirs and successors; and as for and concerning all other the goods and chattels, real and personal, which formerly did belong to or were the property of any of the said persons comprehended within the said articles as aforesaid, at any time before the date of the said articles, which said goods and chattels real and personal, had been at any time since the Tenth day of April, one thousand six hundred eighty-nine, and before the date of the said articles, seized, sequestered, or by any manner of way taken to the use of his Majesty and her said late Majesty the Queen, by any sheriff, escheator, commissioner, officer civil or military, their ministers or servants, or any other person or persons whatsoever, and all other the goods and chattels of the said persons which were not in their own possession, or in the possession of any person or persons as aforesaid in trust for them at the day of making the said articles, the same by authority of this act shall be deemed, vested and adjudged to be in the actual and real possession of his Majesty, without any office or inquisition thereof, hereafter to be found or taken; saving to all and every person and persons, bodies politick and corporate, and to their

successors, executors, administrators and assigns, and to the successors, administrators and assigns of every of them, other than the said persons in whose behalf the said articles were made, and their executors, administrators and assigns, claiming any thing in the said goods and chattels, real and personal, or any part thereof, as executors, administrators or assigns, of the said persons in whose behalf the said articles were made, or any of them, and all and every other person or persons claiming or having any thing in the said goods and chattels, real or personal as aforesaid, seized, sequestered, or by any manner of way taken to the use of his Majesty as aforesaid, to the use of the persons in whose behalf the said articles were made, or any of them, or to the use of any of their executors and administrators, all such right, title, interest, possession, use, action, and means to recover the same whatsoever, which they or any of them had, or ought to have in the premises, or any part thereof, against the said persons in whose behalf the said articles were made, or any of them, in as large and ample manner, to all intents and purposes, as if this act had never been had or made, or any thing herein contained to the contrary notwithstanding.

4th. Provided always, that this act or any thing therein contained shall not extend to avoid any grant or grants at any time heretofore made by his Majesty and the late Queen, of blessed memory,

mony, or by his Majesty of any such goods and chattels real or personal, hereby intended to be vested in his Majesty as aforesaid; but that such grant and grants respectively shall be and remain in such force and effect as if this act had not been made.

5th. Provided always, and be it enacted by the authority aforesaid, that no person or persons shall be construed to be restored within the intent and meaning of the said articles, or if this act, who at the time of their hearing their respective claims, to the benefit of the said articles, shall neglect or refuse to take the oaths of fidelity to his majesty mentioned in the said articles; nor to restore such, who at the time of making of the said articles was or were out of the kingdom of Ireland; except such persons as are comprised in the fourth article of the said articles, made for the late surrender of Limerick; which said persons in the said fourth article comprised, shall have the benefit of the said second article, in such manner and form as in and by this act is as aforesaid declared and no otherwise.

6th. Provided the said persons in the said fourth article named respectively, did return hither within the space of eight months, from the the date of the said articles, and have within that time submitted to the government of his Majesty, and her late Majesty the late Queen; and also

within

within that time taken the oath of allegiance to his Majesty, and her late Majesty the Queen.

7th. Be it further enacted by the authority aforesaid, that all merchants, or reputed merchants, inhabitants of the town of Limerick, or of any other garrison which at the time of making the said articles was possessed by the Irish, or of any town or place in the counties of Clare or Kerry, who were absent beyond the seas; and that have not been in arms since the declaration made by his Majesty, and her late Majesty Queen Mary, in February, one thousand six hundred eighty eight, shall have the benefit of the second article in manner and form aforesaid declared in as large and ample manner as if such merchants or reputed merchants had been present at the making said articles; provided such merchants or reputed merchants did repair into the kingdom within the space of eight months from the date of the said articles, and submitted himself or themselves to his Majesty or her late Majesty's government.

8th. And be it enacted by the authority aforesaid, that all and singular the persons already adjudged or that shall hereafter be adjudged, to have been comprised within the second and third articles, of the aforesaid articles of Limerick, shall from henceforth be deemed and taken to be, as to any prosecution in the name and behalf of his Majesty, and of her late Majesty, or in the name and behalf of his Majesty, his heirs and successors, fully

fully and absolutely pardoned by the authority of this act, of all attainders or outlawries in this kingdom, had or done for all treasons, misprisions of treason, premunires, felonies, trespasses, and other misdemeanours whatsoever by them or any of them committed or done since the beginning of the reign of the late King James to the third day of October, one thousand six hundred and ninety one.

9th. And be it further enacted by the authority aforesaid, that from and after the expiration of two years, to be computed from the first day of September, one thousand six hundred ninety seven, no person or persons whatsoever shall be adjudged, deemed or taken to be entitled to, or have the benefit of the said articles, who shall not be adjudged within that time to be comprehended therein.

10th. And whereas some questions or doubts have arisen for and concerning the time of the beginning of the rebellion or war in this kingdom: be it enacted by the authority aforesaid, that the said rebellion or war is hereby declared to have begun upon the tenth day of April, one thousand six hundred and eighty nine, the same being the day limited to the said rebels and traitors by his Majesty, and her late Majesty's declaration, in February, one thousand six hundred eighty eight, for the said rebels and traitors laying down of their arms and accepting of their

their said Majesty's grace and mercy, on the terms in the said declaration proposed, and that no person or persons whatsoever already adjudged, or that shall be hereafter adjudged to be comprehended in the foregoing articles, shall be sued, molested, or impleaded at the suit of any party or parties whatsoever, for any trespasses by the said persons as aforesaid, comprised, committed or done, at any time since the said tenth of April, one thousand six hundred eighty nine, and before the date of the said articles, or for any arms, horses, money, goods, chattels, merchandizes, or provisions whatsoever by them seized or taken at any time after the said tenth day of April, one thousand six hundred eighty nine, and before the date of the said articles, and no person or persons whatsoever in the second or third articles comprised, shall be sued, impleaded or made accountable for the rents or mesne rates of any lands, tenements, or houses, by him or them received or enjoyed in this kingdom, since the said tenth day of April, one thousand six hundred eighty nine, to the day of the date of the said articles, nor for any waste or trespass by him or them committed in any such lands, tenements or houses since the said tenth day of April, one thousand six hundred eighty nine, and before the date of the said articles.

11th. And whereas it be necessary, that a time be limited for the bringing the said private actions for or on account of such wrongs, injuries, and

and trespasses as aforesaid committed or done by any person or persons, comprehended or claiming the benefit of said articles, since the said fifth day of November, one thousand six hundred eighty eight, to the said tenth day of April, one thousand six hundred eighty nine. Be it enacted by the authority aforesaid, that it shall and may be lawful to and for such person and persons, as have had any wrongs, injuries, or trespasses committed on them by any of the persons aforesaid, since the said fifth day of November, one thousand six hundred eighty eight, and before the tenth day of April, one thousand six hundred eighty nine, to commence his or their action or actions against such trespasser or trespassers, wrong doer or wrong doers, at any time within the space of one year, to be accounted from the said first day of September, one thousand six hundred ninety seven, and at no other time or times after the expiration of the said year, any law or statute to the contrary notwithstanding.

A P P E N D I X.

(No. 2.)

Among a thousand quotations which might be inserted, to prove that the Papists were not so quiet in the interval between the date of the

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articles

articles of Limerick and that of the Penal Laws, as is generally affirmed, the few following are taken from the Journals of Parliament, and from the statute book. Time and leisure for research would furnish many more, and numerous passages in modern historians confirm the same position; but, as those who describe this period of time, are not the most respectable, or accurate, it was thought best to confine this appendix to public documents.

The cases of Edmund Stafford, Com. Jour. vol. 2d. p. 604. — Of Richard Delamar, Do. 658. — Of Redmond Morris, vol. 3d. p. 26. — Of Nicholas Nugent, Do. 32. — Of Jeffery Blake, Do. p. 23. prove how frequently Popish fathers attempted to disinherit their sons for turning Protestants, which induced the legislature to pass the act, making the father, in such case, tenant for life.

APPENDIX, No. 3.

Commons Journal, vol. 2. p. 599, old Edition.

20th October, 1692.

Mr. Rochfort reported from the committee of grievances, that the said committee had come to the several resolutions following; which he read in his place, and then delivered in the same at the clerk's table, viz.

1st.

1st. Resolved, that the continuing or admitting of any Papists, or reputed Papists, in their Majesties standing army, or the militia, within this kingdom, contrary to his excellency the Lord Lieutenant's order in that behalf, is a great grievance, and tends to the endangering of their Majesties government, and the English and Protestant interest here, and the peace and security thereof.

2d. Resolved, that the taking to farm any of the forfeited estates or interests in this kingdom, by any person entrusted with the managery of their Majesties revenue, or any person or persons employed by or under them in their own names, or in the name of any other, for their or any of their use, was and is a great breach of trust and a grievance.

3d. Resolved, that a great number of Papists, and reputed Papists, that go and are armed in this kingdom, and the number of able and serviceable horses now in their hands or power, is of very dangerous consequence, and a great grievance, especially at this juncture.

To all which the House agreed.

Mr. Rochfort, chairman of the committee of grievances, having this day reported from the said committee, that the said committee had come to this resolution, viz.

Resolved, *nemine contradicente*, that the great number of Papists, and reputed Papists, who go and are armed in this kingdom, and the number of able and serviceable horses now in their hands or power, is of very dangerous consequence, and a great grievance, especially at this juncture, to which resolutions of the committee the house agreed, and thereon

Ordered, on the question, that such members of this house as are of their Majesties most honourable privy council, be appointed a committee to attend his excellency the Lord Lieutenant, humbly to desire his excellency to take care for the seizing of such arms and horses, and recalling such licences granted to any Papists in this kingdom for carrying or bearing arms, as his excellency shall think fit.

Mr. Rochfort reported from the said committee this further resolution :

Resolved, that it is the opinion of the said committee, that it is of very dangerous consequence to their Majesties government in this kingdom, and a great grievance, that any boat do remain or continue in the hands or power of any Papist, or reputed Papist, on any coast, or in any creek, haven, port, or navigable river, within this kingdom, during this present war, and that this matter should be specially reported to the house, and the house be moved

moved that an application, be made to his Excellency the Lord Lieutenant for remedy herein.

Ordered, that the matter reported from the committee, touching the boats, be recommitted.

The house being informed that his Excellency the Lord Lieutenant had caused divers suspected persons to be apprehended, and several troops to be sent down to suppress the enemies of the publick peace.

Resolved, that the humble thanks of this house be given to his Excellency the Lord Lieutenant, for his great care and prudence in preserving the peace of this kingdom; and that the members of this house who are of their Majesties most honourable privy council, Captain John Nichols, and such other members as think fit to accompany them, do attend his Excellency, and acquaint him with the vote of this house.

Preamble to the Act 9th Will. III. c. 1.

The Romish clergy do not only endeavour to withdraw his Majesty's subjects from their obedience, but do daily stir up, and move sedition and rebellion, to the great hazard of the ruin and desolation of this kingdom.

Act 10 Will. III. c. 13. Whereas Popish solicitors have been, and still are the common disturbers of the peace and tranquillity of his Majesty's subjects in general.

2d Anne, c. 3. Whereas great numbers of Popish bishops, deans, friars, jesuits, and other regulars of the Popish clergy, do daily come into this kingdom from France, Spain, and other foreign parts, under the disguise or pretence of being Popish secular priests, with intent to stir up her Majesty's Popish subjects to rebellion.

Preamble to 7th William, c. 21. states that the country was in great disorder, and that the persons committing those disorders were countenanced by the Papists.

Act 6th Anne, c. 11th. in its 5th Section, declares that the Papists at that time kept private intelligence with the French, who were by that means enabled to infest and insult the coasts.

Act 2d Anne, c. 6th. in its preamble, states the daily endeavours of the Popish clergy to pervert persons from the Protestant religion; and mentions that many papists had refused to make provision for their own children, for no other reason but their being of the Protestant religion.

The same act declares in its 26th section, that the peace of the publick was greatly disturbed, and the safety of the government hazarded by the riotous and unlawful assembling together of many thousands of Papists at holy wells, and other places.

Act

Act 8th Anne, c. 3. in the 23d section asserts, that many Irish Papists did, when (not long before the making of that act) the Pretender attempted to invade Scotland, refuse to give the Chief Governors of Ireland any testimony and assurance of their fidelity and loyalty to her Majesty, or of their affection to the government, and Protestant succession, as by law established.

The commons, in an address to the Lord Lieutenant in 1703, upon presenting the famous penal act, 2d Anne, attended with an address to the Queen, says, that the opposition constantly made in England by the Papists of this kingdom, against whatever might tend to the security of her Majesty's Protestant subjects, had induced them to lay those heads of a bill in so solemn a manner before his Grace.—Com. Jour. vol. 3. p. 151.

Resolved, that it appears to this house, that the Papists of this kingdom still retain hopes of the coming in of the person who went by the name of the Prince of Wales, in the life-time of the late King James, and now by the name of James 3d. Nov. 26th, 1703.—Com. Jour. vol. 3. p. 160.

The preceding resolution was attended with one, for burning by the hands of the common hangman a seditious book, entitled Memoirs of
King

King James the Second. It is remarkable, says Tindal, that when the motion was made for burning this book, a member represented the great danger the Protestants were in, in some parts of Ireland, particularly in the County of Limerick, where the Irish were beginning to form themselves into bodies, and to plunder the Protestants of their arms and money.

18th November, 1703. A committee of the whole house express their opinion, that the great lenity and moderation hitherto shewn to the Papists, has had no other effect, nor been otherwise looked upon by them than as a connivance or encouragement.

By a resolution of the house of commons, 24th June, 1710, it appears, that about that time ten thousand Papists had assembled in a tumultuous, dangerous, and unlawful manner, at a place called John's Well, which occasioned an address of the house to the Lord Lieutenant.

An address of the commons, on presenting a money bill, at the lords bar, 22d December, 1713, declares, that they were woefully sensible that unanimity was most absolutely necessary among Protestants for their common preservation, against the numerous friends the Pretender then had among the Irish Papists in this kingdom.

Mr.

Mr. Chancellor of the Exchequer reported from the committee of sixteen members of this house, appointed to meet a committee of eight of the Lords, to consider of a paper, communicated by this house to the house of lords, written by Colonel John Brown, and found amongst the papers of one Tyrrell, a titular Popish bishop, and secretary to the late King James, containing a scheme and proposal for the utter extirpation of the Protestants and Protestant religion in this kingdom, and other matters of dangerous consequence, that they had met the lords in the robe-room, and considered of the matters to them referred, and acquainted the House with the sense of the said committee of the lords and commons, viz.

1st. That the Irish Papists have on all occasions endeavoured to extirpate the English interest in this kingdom.

2d. That all necessary provision be made by law for the present and future security of the Protestant interest in this kingdom.

3d. That next, under God, the welfare of this kingdom depends upon the safety and preservation of his Majesty's person.

4th. That it is necessary that a law be made for a general association of Protestants, for the preservation of his Majesty's royal person and government.

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5th.

5th. That the continuance of all commissions, civil and military, after the death or demise of his present Majesty, unless superseded by the next successor according to the limitation of an act passed in England, entitled an act declaring the rights and liberties of the subject, and settling the succession of the crown, is fit to be enacted into a law.

Then the House taking the same into their consideration came to the following resolutions.

1st. Resolved, *nemine contradicente*, that ever since the reformation, but more particularly during the reign of the late King James, the Papists in this kingdom, by their frequent conspiracies, inhuman massacres, and open rebellions, have endeavoured to extirpate and entirely subvert the Protestant religion and interests in this kingdom.

2d. Resolved, *nemine contradicente*, that the Papists of this kingdom do still retain the same inclinations and resolution of extirpating the Protestant religion and interest in the kingdom, and for severing the same from the imperial crown of England.

3d. Resolved, *nemine contradicente*, that other laws than what we now have, are absolutely necessary for the preservation of his Majesty's royal person, and the better securing of this kingdom

kingdom to England, and the Protestant religion and interest here.

4th. Resolved, *nemine contradicente*, that the safety of this kingdom, doth next, under God, depend on his Majesty's life; and that therefore a law for a general association of Protestants in this kingdom, for preservation of his royal person, and government, is necessary.

5th. Resolved, *nemine contradicente*, that the continuance of all commissions, civil and military, after the death or demise of his present Majesty for six months, unless superceded by the next successor, according to the limitation of an act passed in England, intituled an act declaring the rights and liberties of the subject, and settling the succession of the crown, is fit to be made a law in this kingdom.

6th. Resolved, *nemine contradicente*, that the excluding of Papists from having votes for electing any members to serve in parliament in this kingdom, is necessary to be made into a law.

7th. Resolved, *nemine contradicente*, that it is absolutely necessary that some further security than the oath of fidelity be required from his Majesty's subjects of this kingdom; and particularly a declaration, that neither the late King James, or the pretended Prince of Wales, nor neither of them, have, or ought to have, any

right or title to the imperial crown of England.

8th. Resolved, *nemine contradicente*, that such declaration be on oath, and subscribed by the parties so swearing.

9th. Resolved, *nemine contradicente*, that some further oath than what is required by law, renouncing the Papal authority in this kingdom, is necessary for the securing of the peace and quiet thereof.

10th. Resolved, *nemine contradicente*, that it is necessary to be made a law, that the preaching, writing, or otherwise asserting, that King William is not rightful or lawful King of these realms, be high treason.

Resolved, that this House, with Mr. Speaker, do attend their excellencies the Lords Justices with the foregoing resolution; and humbly desire their Excellencies would please to take the same into their consideration.

Ordered, that such members of this house as are of his Majesty's most honourable privy council, do attend their Excellencies the Lords Justices; and desire to know when this house, with their speaker, may attend their Lordships with the said resolutions.

Ordered,

Ordered, that the persons under-named, or any three of them, be appointed a committee, to meet at the speaker's chamber this afternoon at four of the clock, to enquire what laws are in force in this kingdom against Papists, and report the same to-morrow morning.

F I N I S.

Ordered, that the persons under named, or
any three of them, be appointed a committee
to meet at the [unclear] this afternoon
at four of the clock to [unclear] what laws are
in force in this [unclear] and to
port the same to-morrow morning.



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